1579.

SUPREME COURT OF THE UNITED STATES.

No. 161.

THE UNITED STATES, APPELLANTS,

vs.

EDWARD MURPHY.

APPEAL FROM THE DISTRICT COURT U. S. FOR LOUISIANA.

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UNITED STATES DISTICT COURT,
District of Louisiana.

EDWARD MURPHY and others
vs.
THE UNITED STATES. } No. 6.

Be it remembered, that on the twelfth day of April, A. D. 1845, the plaintiffs in the cause as above entitled and numbered, appeared by their counsel in the clerk's office of the district court of the United States, for the district of Louisiana, and filed their petition in the words and figures following, "*to wit:*"

To the honorable Theodore H. McCaleb, judge of the district court of the United States of America, in and for the district of Louisiana:

The petition of Louis Tangin, for himself, and natural tutor for his minor children, "to wit:" Evaniste Tangin, Ambrosine Tangin, Emile Tangin, Alida Tangin, Virginia Tangin, Odalie Tangin; said minor children being all heirs and legal representatives of Eugenie Murphy, deceased, late wife of Louis Tangin, who was the daughter of Edward Murphy, deceased; and Dennis Valery Murphy, Edward Murphy, junior, heirs and legal representatives of Edward C. Murphy, deceased, who was the son of Edward Murphy, deceased; and Aspasie Gaillard, wife of R. P. Gaillard, and Arnaud Lauve, the said Aspasia and Arnaud being the heirs and legal representatives of Aspasie Lauve, who was the wife of Arnaud Lauve, sen'r, dec'd, and who was the daughter of the said Edward Murphy, deceased; and Eliza Grinaux, wife of Charles E. Grinaux, and daughter of Louis Tauzin and Eugenie Tauzin, the said Eugenie having been the daughter of Edward Murphy, deceased, as aforesaid; all of the parish of Natchitoches, in the State of Louisiana, except the said Aspasie Gaillard, who resides in the parish of Iberville, in the State of Louisiana, respectfully represent, that as the heirs and legal representatives of the said Edward Murphy, deceased, they are the owners and possessors of the one-fourth part of the Lanana and Las Ormigas tracts of land, situated in the parish of Sabine, formerly in the parish of Natchitoches, in said State of Louisiana, and more fully and particularly described.

And your petitioners further represent, that said Edward Murphy, deceased, heretofore in his lifetime, to wit, on the 22d day of February, 1798, at Nacogdoches, in Texas, (Texas then being a province or department of Spain,) appeared before and presented his petition to Don José Maria Guardiana, then being lieutenant governor of Texas aforesaid, and civil and military commandant of Nacogdoches aforesaid, and upon certain statements and representations therein contained, prayed for a grant or concession of land to be made to him, the said Edward Murphy, at a place called La Nana, situate on the east of the river Sa-

bine, about seven leagues from its margin, and on the road leading from the said Nacogdoches to Natchitoches; said tract of land from its centre, which is the prairie joining the bayou of the aforesaid La Nana, and immediately on the said road, to extend two leagues towards each cardinal point, so as to form a perfect square of four leagues in length each front line, the centre to be said prairie, so that in said space of land the said Edward Murphy might have sufficient range for his present and future stock; and which petition was duly signed by the said Edward Murphy; and thereupon, to wit, on the 1st July, 1798, the said Guardiana, Lieut. Gov'r, &c., as aforesaid, ordered and decreed said petition to be passed to the procurador, that he, the said procurador, might *have* in possession of the land the interested person as in said petition described, and to which order or decree the said Guardiana has affixed his proper signature.

And your petitioners further represent, that afterwards, to wit, on the first day of August, 1798, at Nacogdoches aforesaid, one Don José Cayetano de Zepeda, syndic and procurador of the jurisdiction of Nacogdoches aforesaid, accompanied by his assisting witnesses, Juan José Medina and José Domingues, went to said place called La Nana, and visited the lines thereof, with the said Edward Murphy, in order to establish in said place of La Nana the said Edward Murphy, who was by said procurador styled and called Don Edward Murphy, who then being present and finding no impediment, was given possession of the premises pursuant to said order or decree, with the boundaries and extensions as prayed for, and in demonstration of the right which the said Murphy held in the said land as the sole and absolute possessor and owner thereof; which said act of possession was then and there, to wit, on the day and year last aforesaid, duly signed by said José Cayetano de Zepeda and his assisting witnesses, said Juan José Medina and José Domingues.

And your petitioners further represent, that afterwards, to wit, at the post of Nacogdoches, on the fourth day of August, 1798, said act of possession having been returned to the said Guardiana aforesaid, said Guardiana, as civil and military commandant of said post of Nacogdoches, ordered and decreed in the name of his majesty the King of Spain, that in virtue of the said possession of said land given to said Don Edward Murphy as aforesaid, and without opposition, the original documents or proceedings thereunto appertaining, should be placed in the protocol of said post, to serve as evidence of the same, and that there should be given to the said Don Edward Murphy, the interested person, a certified copy thereof, as a title for said property, and in testimony of which said Guardiana signed said order or decree, with two assisting witnesses, José Louis de la Begar and Pedro Lara, with whom the said Guardiana acted for want of a public notary, and on common paper for want of stamped; and to all of which said Guardiana gave faith, as by reference to said petition, order, or decree, of possession, act, and delivery by said procurador and his assisting witnesses, and final decree or confirmation by the said Guardiana, and his assisting witnesses, now remaining and being as aforesaid in the office of the register of the land office at Ope-

lousas, will more [fully] and at large appear, and to which your petitioners for greater certainty beg leave to refer and introduce on the trial, and give in evidence in this cause, in such manner as your honor may direct.

And your petitioners further represent, that said land, so as aforesaid granted, now lies within what was termed the late Neutral territory in the parish of Sabine, formerly parish of Natchitoches, in the State of Louisiana aforesaid, and that said territory at the date of the said grant was within the province or department of Texas, and that Texas was at that time under the dominion of Spain; and that said Guardiana, as civil and military commandant or lieutenant governor, had good right and lawful authority to grant the same in manner aforesaid; and that said grant and preliminary proceedings relating thereunto were in all things in conformity with the laws, usages, and customs of Spain as they then existed, and were exercised in the province or department of Texas aforesaid; and that said grant vested said Edward Murphy and his legal representatives with a good estate of absolute inheritance.

And your petitioners further represent, that the said Edward Murphy did afterwards, to wit, on the 3d day of November, 1798, convey said premises so granted to him as aforesaid to a commercial house or firm, known by the name of William Barr & Co., and consisting of himself, (said Murphy,) Samuel Davenport, Luther Smith, and the said William Barr, then resident and doing business at Nacogdoches aforesaid; to which deed of conveyance, still remaining on file in the office of the register of the land office at Opelousas aforesaid, your petitioners for greater certainty beg leave to refer and introduce in evidence on the trial of this cause as your honor may direct. And your petitioners further represent, that immediate possession was taken under said grant so made by said Guardiana, and has been so continued by the said Edward Murphy and his legal representatives, except as hereinafter excepted, to the present time.

And your petitioners further represent, that one Jacinto Mora, to wit, on the 14th day of November, 1795, at Nacogdoches, in the province or department of Texas aforesaid, (Texas then being a province or department of Spain as aforesaid,) appeared before and presented his petition to Bernardo Fernandez, then being lieutenant governor and civil and military commandant of the post of Nacogdoches aforesaid, and upon certain statements and representations therein contained, and certain good and sufficient reasons therein and thereby given, prayed for a grant or concession of land, six leagues square, to be made to him, the said Jacinto Mora, at a place called Las Ormigas, situate on the east side of the river Sabine, and within the late Neutral territory, and now within the parish of Sabine, in the State of Louisiana aforesaid, and distant from the village of Nacogdoches about twenty-five leagues; the principal front or western boundary to extend north and south six leagues, so that the centre of said line will be the "Indian crossing place," on the river Sabine; the north line to begin on the northern extremity of said front line on the east bank of said river, and extending six leagues east, forming, with the front line, a rectangle; the south line to com-

mence on the southern extremity of the aforesaid front line, and extending six leagues east, forming also with the other a rectangle; the line on the east side to commence at the extremity of the north line, and running parallel with said river, until it joins the extremity of the south line, so that the prairie and plains of the Ormigas will be included in the square of four fronts of six leagues in length, each formed by the expressed four lines, &c.; which said petition was signed by the said Jacinto Mora.

And your petitioners further represent, that the said Bernardo Fernandez did thereupon, to wit, on said 14th day of November, 1795, at Nacogdoches aforesaid, order and decree in writing, that the cyndic procuror of said jurisdiction of Nacogdoches, Don José Calletano de Zepeda, should establish said petitioner in the aforesaid place, and in the manner asked for, if vacant, and not prejudicial to any inhabitant proprietor of land, observing all the usual formalities of style, and extend the proceedings had in continuation for the more effectual confirmation of property; which said order or decree in writing was signed by said Bernardo Fernandez.

And your petitioners further represent, that the said Don José Calletano de Zepeda, cyndic procuror of said district of Nacogdoches, did thereafter, to wit, on the 2nd day of December, 1795, in conformity to said order or decree, and accompanied by assisting witnesses, Don José de la Bega and Juliano Grande, go to said place called Las Ormigas, and after visiting the lines thereof, gave said Jacinto Mora possession of the said premises in conformity with said decree, there being no inhabitants near, and the same not interfering with rights or proprietors of land; and said cyndic, with his said assisting witnesses, did then and there, on the day and year last aforesaid, certify and make return of the same under their proper hands to said Bernardo Fernandez; whereupon said Barnardo Fernandez, did, afterwards, to wit, on the 15th day of December, 1795, at Nacogdoches aforesaid, as lieutenant governor of said village of Nacogdoches aforesaid and its jurisdiction, under his proper sign manual, confirm said title in form and possession in the name of his majesty the King of Spain to said Jacento Mora, for himself, his heirs, and others representing his rights in perpetuity; it then and there, to wit, on the day and year last aforesaid, appearing to said lieutenant governor by the certificate and return of the said cyndic, that said tract of land was vacant and could do no prejudice to the neighbors of the said Jacento Mora, as by reference to said petition, order, or decree, by delivery of possession by said cyndic procurador and his assisting witnesses, and final decree or confirmation by said Bernardo Fernandez, lieutenant governor, still remaining on file and of record in the office of the register of the land office at Opelousas, in the State of Louisiana, *as* will more fully appear, and to which your petitioners for greater certainty beg leave to refer and introduce on the trial of this cause, and give in evidence in such manner as your honor may direct.

And your petitioners further represent, that said land, so as last aforesaid granted, now lies on what is known as the late Neutral territory in

the parish of Sabine, formerly parish of Natchitoches and State of Louisiana, and that said territory at the time when said grant last aforesaid was made, was a province or department of Texas, and that Texas was at the time under the dominion of Spain, and that the said Bernardo Fernandez had good right and lawful authority to grant the same in manner aforesaid, and that said grant and all preliminary proceedings relating hereto are in all things in conformity to the laws, usages, and customs of Spain, as then known, existed, and exercised in the province or department of Texas, at the post of Nacogdoches aforesaid; and that said grant last aforesaid invested said Jacinto Mora and his legal representatives with a good, absolute, and indefeasible estate of inheritance.

And your petitioners further represent, that said Jacinto Mora, afterwards, to wit, on the 22nd day of July, 1805, at Nacogdoches aforesaid, for a valuable consideration, conveyed said premises in said grant last mentioned to a commercial co-partneship, then and there, to wit, on the day and year, and at the place last aforesaid, known by the name and style of William Barr & Co., and consisting of said Barr, Samuel Davenport, Edward Murphy, and Luther Smith; which deed of conveyance still remaining on file and of record in the office of the register of the land office at Opelousas, in Louisiana aforesaid, and to which your petitioners ask leave to refer, and introduce in evidence on the trial of this cause, in such manner as your honor may direct.

And your petitioners further represent, that immediate possession of said land was taken by said Jacinto Mora, at the time when said grant was made as aforesaid, and has been so continued by him and his legal representatives, except as hereinafter excepted, from the date of said grant to the present time.

And your petitioners further represent, that all the members of said firm of William Barr & Co., to wit, said Barr, Smith, Davenport, and Murphy, are now, and for a long time past have been, deceased; but at what particular times they or either of them died, your petitioners do not know, and therefore cannot state.

And your petitioners further represent, that both of said La Nana and Ormigas tracts of land were, on or about the time of making said grants respectively, duly surveyed, and the lines thereof duly marked.

And your petitioners further represent, that said commercial co-partnership was dissolved on or about the 9th day of October, 1806, and all the co-partnership property divided, except said La Nana and Ormigas tracts of land, as by reference to articles of dissolution, on record in the office of the parish judge of the parish of Natchitoches, in said State of Louisiana, will more fully and at large appear, and to which your petitioners ask leave to refer, and introduce in evidence on the trial of this cause as your honor may direct.

And your petitioners further represent, that said grants have been thrice, and as your petitioners believe in the year 1824, 1836, and 1840, submitted to different boards of commissioners established by law for inquiring into and reporting upon land titles derived under French or Spanish authority, and lying within the State of Louisiana, and that

each and all of said board of commissioners, after examining said titles and taking testimony thereupon, have reported in favor of said titles respectively, have classed them in the first class, and have recommended them to the Government of the United States for confirmation, as by the record of proceedings still remaining in register's office at Opelousas, and the testimony therein taken, and by the records of the Commissioner of the Land Office in the city of Washington, will more fully and at large appear, and to which, together with all other testimony taken by any board or boards of commissioners relative to said grants, your petitioners ask leave to refer, and introduce in evidence on the trial of this cause, as your honor may direct.

And your petitioners further represent, that on or about the 26th of April, 1833, a judicial partition of said lands, embraced by each of said grants, was made in the court of probates, in the parish of Natchitoches, (where the land then lay,) between said Davenport, Barr, and Murphy, and Smith, as their legal representatives, by which said two tracts of land were divided into four equal parts, [with] reference to the value thereof respectively; the legal representatives of the said Davenport, Barr, Murphy, and Smith, taking one fourth each of each of the said grants or tracts; since which time, to wit, said 26th day of April, 1833, the same has been and is now held in severalty, pursuant to said act of partition; to which partition, the record maps, and other proceedings relating to the same, still remaining on file in the office of the clerk of probates in and for the parish of Natchitoches aforesaid, and your petitioners, for greater certainty, beg leave to refer, and introduce, and give in evidence, on the trial of this cause, as your honor may direct.

And your petitioners further represent that, on or about the 22nd day of February, 1841, the owners of the said two tracts of land applied to the surveyor general of the United States, in and for the State of Louisiana, for a survey of the said land, and that thereupon said surveyor general issued his order or request to G. T. and W. H. Walmsley, deputy surveyors, at Natchitoches, to survey and plat said two tracts of land, and make return thereof to him, said surveyor general, as by the copy of said order or request, filed in this court, with the petition of Henry Yates and Archibald McIntyre, against the United States, and the original thereof, still remaining of record in the office of the said surveyor general, will more fully appear.

And your petitioners further represent, that the said deputy surveyors as aforesaid surveyed said two tracts of land pursuant to said order, and divided the same according to said judicial partition between the aforesaid parties, and made returns thereof to said surveyor general according to law, a certified copy of the said map *are* also filed with said petition of Yates and McIntyre, and to all of which your petitioners beg leave to refer, and introduce in evidence on the trial of this cause, in such manner as your honor may direct.

Your petitioners further represent, that they have taken every means in their power to prevent a sale of said land by the Government of the United States, and as often as sales of public lands have been advertised

in the district in which your petitioners' lands lay, have given notice to the registers and receivers of the said district, and to the proper department at Washington city, and such notices, from time to time given, have drawn from said department at Washington letters, copies of which are filed with the petition of Yates and McIntyre, and to which your petitioners beg leave to refer, and introduce in evidence on the trial of this cause, in such manner as your honor may direct.

Your petitioners further represent, that some of the lands of your petitioners have, from time to time, been granted and sold, as therein stated by the certificate of the register of the land office at Natchitoches, and filed herewith, and to which your petitioners beg leave to refer; and that the lands so sold and granted as aforesaid are now held under such sales and grants, and that no part of the purchase money has been refunded by the United States.

But it is not the wish or intention of your petitioners to contest the titles derived under such sales or grants. Your petitioners, however, aver that, under the act under which this petition is filed, to wit, the act of Congress, approved on the 17th June, 1844, providing for the settlement of land titles in the State of Louisiana, they have a right to locate an equal quantity elsewhere on any unappropriated public land within the said State.

Your petitioners further represent, that they have made various efforts to have the titles to their lands recognised and confirmed by the Government of the United States, but have hitherto been remediless in the premises, (unless said actions by said board of commissioners amounts to such recognition and confirmation,) until the passing of said act, approved the 17th June, 1844, entitled "An act to provide for the adjustment of land claims within the States of Missouri, Arkansas, and Louisiana, and in those parts of Mississippi and Alabama south of the 31st degree of north latitude, and between the Mississippi and Perdido rivers.

Your petitioners aver, that they are all the heirs at law of the said Edward Murphy, deceased, and represent the entire interest of said Murphy in each of said tracts of land.

And your petitioners ask leave to file this their petition against the United States, (under the aforesaid act of Congress,) and pray that a copy of the same, together with a citation, may be served on the district attorney of the United States for the district of Louisiana, and such other persons as may be made parties hereunto, requiring him and them to appear at a day certain, to be named therein, to show cause, if any he or they have, why the title of your petitioners should not be inquired into by this honorable court, and adjudged and decreed in favor of your petitioners.

Your petitioners ask, also, that their claims to said land may be so adjudged and decreed, and that they be permitted to locate a like quantity of land elsewhere, in accordance with the provisions of the aforesaid act of the 17th June, 1844, for the quantity so sold or granted by the United States as aforesaid.

Your petitioners also ask leave to amend this petition, from time to

time, as may become necessary, and pray that costs may be awarded them in this behalf, and for such other and further and general relief in the premises as may be agreeable to equity and good conscience, as may be deemed proper by your honor to grant.

All of which is respectfully submitted.

(Signed,) H. BALDWIN, *Of counsel.*
(Signed,) B. G. FONTENEAU,
Attorney for plaintiffs.

United States district court, sitting in and for the eastern district of Louisiana.

To the marshal for the eastern district of Louisiana, or his lawful deputy, greeting:

You are hereby commanded to summon Balie Peyton, esq., U. S. district attorney, to appear before the honorable judge of the district court of the United States, sitting in and for the eastern district of Louisiana, at a district court to be holden at New Orleans on the first Monday of May next, then and there to answer a petition in chancery, filed against the United States, wherein Edward Murphy and others, plaintiffs, and the United States are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the honorable Theo. H. McCaleb, judge, this 16th day of April, New Orleans, 1845, and 69th year of American independence.

(Signed,) N. R. JENNINGS, *Clerk.*

Memorandum.

The defendant is to enter his appearance in the above entitled cause in the clerk's office on or before the 1st Monday of *Monday*, 1845, otherwise the petition may be taken pro confesso.

Marshal's return, filed 18*th of April*, 1845.

Received this 16th day of April, 1845, and on the same day of April served copies of the within citation, plaintiff's petition, and documents annexed, on the within named Balie Peyton, U. S. district attorney, in the manner following, to wit, by handing the same to J. W. Smith, at his office, Bailie Peyton being absent from the city.

(Signed,) WM. K. STILES,
Dy. U. S. M.

And on the 3d day of May, 1845, the following answer of the defendants, by the U. S. dist. att'y, was filed:

U. S. district court for the district of Louisiana.

EDWARD MURPHY and others }
vs. }
THE UNITED STATES. }

The United States of America, by Balie Peyton, their attorney, for answer to the petition in the above entitled suit, deny all and singu-

lar the allegations therein contained, and require strict and full proof thereof, and pray to be hence dismissed with costs, and general relief.

(Signed) BALIE PEYTON,
U. S. Atty. for La.

And on the 5th day of May, 1845, the following entry was made on the minutes, to wit:

Monday, May 5th, 1845.

EDWARD MURPHY
vs. } No. 6.
The UNITED STATES.

The parties not being ready for trial, this cause was continued.

And on the 30th day of June, 1845, the following entries were made on the minutes, to wit:

Monday, June 30th, 1845

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vs. } No. 6.
The UNITED STATES.

The above entitled cause was, by order of court, called this day. The counsel for the respective parties being present and not objecting, Balie Peyton, esq., appearing for the plaintiffs, and S. W. Downs, United States district attorney, for the defendants; and by the consent of parties, by their attorneys, the said cause was ordered to be continued until the first Monday in January next.

EDWARD MURPHY et als.
vs. } No. 6.
The UNITED STATES.

On this day, in the above entitled cause, the plaintiffs by their attorney, Balie Peyton, esq., filed their application praying leave to amend their petition, and also praying that the time for taking testimony on the part of plaintiffs be extended until the first Monday in January next. Whereupon it is ordered by the court that leave be given to the plaintiffs to amend their petition as prayed for, and that they have until the first Monday in August next to file said amendment; and it is further ordered, that the time for taking testimony on the part of said plaintiffs be extended until the first Monday in January next.

And on the 7th day of July, 1845, the following entry was made on the minutes, to wit:

July 7th, 1845.

EDWARD MURPHY et als.
vs. } No. 6.
The UNITED STATES.

The counsel of plaintiffs in this case presented an amended petition, which was ordered to be filed, and copies to be served upon the district attorney.

On the 7th of July, 1845, the following amended petition of plaintiffs, by their attorney, was filed:

To the Hon. Theodore H. McCaleb, judge of the district court of the United States of America, in and for the district of Louisiana.

The amended and supplemental petition of Louis Tausin, Edward Murphy, jr., and other heirs and legal representatives of Edward Murphy, dec'd, all of whom are citizens of, and reside in, the State of Louisiana, leave of court being first had and obtained for filing the same, respectfully represents, in addition to what is stated in the original petition, that the two tracts or parcels of land called La Nana, granted to Edward Murphy, on the 4th day of August, 1798, and the Las Ormigas, granted to Jacinto Mora, on the 15th day of December, 1795, and which are more particularly described in the original petition, are situated in that part of the late province of Louisiana which is now embraced within the limits of the State of Louisiana, and east of the river Sabine.

That the said lands are claimed by virtue of the Spanish grants mentioned in the original petition, which were legally made and issued before the 10th day of March, 1804, to wit, at the times set forth in the original petition, by the proper Spanish authorities, to the said Edward Murphy and Jacinto Mora, each and both of whom were residents in the province of Louisiana, on and before the 10th day of March, 1804, and which grants were protected under the treaty between the United States of America and the French Republic of the 30th day of April, one thousand eight hundred and three, and which were ratified, and confirmed by the treaty between the United States and Spain, of the day of , in the year 1819.

Which grants, and the preliminary and subsequent proceedings relating to the same, were and are in the Spanish language, and of which true and correct translations, in substance and meaning, are set forth in the original petition.

Petitioners further allege, that according to the treaty of the 30th April, 1803, between the United States and the French Republic, the western boundary of the province of Louisiana included Nacogdoches, and extended to the Rio del Norte, and was so claimed by the United States until the same was surrendered for a valuable consideration to Spain, by the treaty between the United States and Spain in 1819, before mentioned.

That while Spain exercised jurisdiction over the territory, and until after the year 1805, the jurisdiction of that section of the country, lying between the rivers Sabine and Arroyo Hondo, or Rio Hundo, in which the lands in controversy are situated, belonged to the post of Nacogdoches, and was under the jurisdiction of the authorities of that post.

Wherefore the petitioners pray, that the validity of the said grants may be inquired into by this honorable court, as well as all other matters connected therewith fit and proper to be inquired into, and by a final decree that your honor will settle and determine the question of the

validity of the said grants, according to the law of nations, the stipulations of the treaties aforesaid, the laws, ordinances, and usages of Spain; and that your honor will order, adjudge, and decree, that the said grants are valid, and that your petitioners are the true and legal owners of the lands before mentioned, and more particularly described in the original petition. And your petitioners pray for general and equitable relief in the premises; and as in duty bound, &c., &c.

(Signed) PEYTON & SMITH,
Atts. and counsel for petitioners.

And on the 2d day of February, 1846, the following entry was made on the minutes, to wit:

Monday, February 2d, 1846.

Present, Hon. T. H. McCaleb.

This being the regular monthly term for the trial of land suits, the docket was called, and the following case fixed:

EDWARD MURPHY et als.
vs. } No. 6.
THE UNITED STATES.

On motion of B. Peyton, of counsel for petitioner, it is ordered that this cause be fixed for Monday, 16th instant, and that the time for taking testimony be extended till said 16th instant.

And on the 3d day of March, 1846, the following entry was made on the minutes, to wit:

TUESDAY, *March* 3, 1846.

Present, the Hon. T. H. McCaleb.

EDWARD MURPHY et als.
vs. } No. 6.
THE UNITED STATES.

This cause was now taken up by consent of H. Baldwin, of counsel for petitioners, and of the United States district attorney for respondents. The testimony of J. B. Carr, taken before the commissioner, was given in evidence, the U. S. district attorney not objecting thereto. It was agreed by said counsel that the partition filed in the suit of Yates and McIntyre vs. the United States, and marked "Document K," and all the evidence in said suit, except that which relates to the mesne conveyances, be considered in evidence in this suit. Whereupon, the cause was submitted upon said evidence to the judgment of the court.

And on the 3d March, 1846, the following testimony of John B. Carr, witness for the plaintiffs, was offered in evidence, and filed:

EDWARD MURPHY and others
vs.
THE UNITED STATES.

United States district court.

By request of the counsel for the plaintiffs, who desired to have some evidence taken in the above suit in behalf of plaintiffs, before me, N.

R. Jennings, commissioner, without notice thereof being given to the defendants' counsel; accordingly on this, the 8th day of May, A. D. 1845, personally appeared John B. Carr, witness for the plaintiffs, who being duly sworn, states, that he resides in the parish of Natchitoches, in the State of Louisiana, and by profession an attorney and counsellor at law. That he knows the family generally of Edward Murphy, deceased; most of them reside in his vicinity; has examined the petition filed in the above entitled suit, and is of the opinion and belief that the name of the heirs and legal representatives of said Edward Murphy, deceased, are truly and correctly stated in said petition.

Signed, J. B. CARR.

The witness having affixed his signature to the above deposition in my presence, the examination of witness was here closed.

May 8, 1845.

Signed, N. R. JENNINGS, *Commissioner*.

Document marked K, being a "judicial partition," as read in evidence in the case of Yates & McIntyre against the United States, and offered in evidence in this case, as per agreement on the date of the 3d of March, 1846; which document is as follows:

ELIZA RUSSELL
vs.
SUCCESSION SMITH, BARR, AND MURPHY.

Petition filed March 5, 1831.

To the honorable the judge of the court of probates in and for the parish of Natchitoches, in the State of Louisiana.

The petition of Eliza T. Russel, assisted and authorized to bring the present action by her husband, Samuel P. Russel, and both of the said parish of Natchitoches, most respectfully represents, that at the present time there exists a large quantity of landed property in community between your petitioner, as one of the heirs of Samuel Davenport, deceased, and the succession of the deceased Edward Murphy, the succession of the deceased William Barr, and the succession of the deceased Luther Smith, that said property is situated in the said parish of Natchitoches, and consists in two certain tracts, the one containing six leagues square, and known by the name of the Ormigas tract; and the other tract, containing four leagues square, and known by the name of the Lanana tract.

And your petitioner represents, that the succession of the said Samuel Davenport is represented by her as aforesaid, and her brother, John Bernard Benigno Davenport; that the succession of said Edward Murphy is represented by the heirs and legal representatives of said Murphy, to wit, Mary Aspasia, wife of Raymond Pierre Gayard, of the parish of Orleans, and Armand Lauve, junior, of the parish of Natchitoches, represented by Armand Lauve, senior, as his curator ad bona; by Marie Eugenie Tauzin, wife of Lewis Tauzin, by Armand Lauve,

senior, as curator ad bona of Edward Murphy, and as tutor of Ophelia and Adelle Murphy; and by Victorin Metoyer, as tutor of Dennis Murphy, by Robert Thompson, representing the succession of said William Barr; and that the succession of said Luther Smith is represented by Samuel Smith, and that all the said persons representing the aforesaid successions are residents of the said parish of Natchitoches, except the said Mary Aspasia Gayard and her said husband, Raymond Pierre Gayard, who are residents of the parish of Orleans aforesaid.

And your petitioner represents, that she is desirous that a judicial partition of said land be made in kind and according to law, and within the shortest possible delay, and that the same be divided into four lots of equal value; by experts appointed for that purpose, and that Bernard Leonard and William Callagham be appointed experts to divide said property.

The premises considered, your petitioner prays that your honor may be pleased to grant an order for the partition of said property as aforesaid, and that said Leonard and Callagham, both residents of said parish of Natchitoches, be appointed and notified as experts to divide said property into lots as aforesaid, and that said John Bernardo Benigno Davenport, the said Armand Lauve, senior, the said Victorin Metoyer, the said Marie Eugenie Tauzin, and her husband, Lewis Tauzin, together with the said Robert Thompson and Samuel Smith, all of said parish of Natchitoches, and the said Mary Aspasia Gayard, and her said husband, Raymond Pierre Gayard, both of the said parish of Orleans, be duly cited to appear and answer this petition, that said property be divided as prayed for, and that your honor be pleased to homologate the same, and to extend general relief in the premises; and as in duty bound, &c.

Signed, RICHARD FENNESSEY,
Attorney for Petitioner.

Order.

Court of probates, parish of Natchitoches, March 4th, 1831.

Let the parties in community with the petitioner be cited to shew cause, if any they have, why a partition of the common property in the petition mentioned should not be ordered as prayed for.

Signed, JOHN C. CARR, *Judge*
Of probates of the parish of Natchitoches.

Return.

We, the undersigned, acknowledge service of the within petition, and waive the formalities of citation.

Signed, J. B. B. Davenport, Samuel Smith, Ad. Lauve, tutor of Armand Lauve, jr., and of Adelle and Ophelia Murphy, and curator ad bona of Edward Murphy. Robert Thompson, representing the heirs of William Barr. Jn. Laplace, attorney in fact of Aspasia Gaillard and R. P. Gaillard.

March 7th, 1831.

Citation.

ELIZA RUSSEL
vs.
SUCCESSION SMITH, BARR, and MURPHY.

In the probate court, parish of Natchitoches, State of Louisiana:

To Victorin Metoyer, tutor of Dennis Murphy, of the parish of Natchitoches: You are hereby cited to appear in the office of the clerk of said court, in the town of Natchitoches, in the parish aforesaid, and comply with the prayer of the annexed petition, or file your answer thereto in writing in the said office, on the fourth Monday of March instant, if ten days shall remain between the time of the service hereof and the said fourth Monday in March; but, if so many days shall not remain, then in ten days after the service hereof.

Witness the honorable John C. Carr, judge of the said court, this eighth day of March, one thousand eight hundred and thirty.

Signed, C. E. GRENEAUX, *Clk. of said court.*

Return.

Served the within citation by delivering a copy with a copy of petition annexed. This 16th day of March, 1831.

Signed, ASA B. EDWARDS, *Dep. sheriff.*

Citation.

ELIZA RUSSEL
vs.
SUCCESSION SMITH, BARR, and MURPHY.

In the probate court, parish of Natchitoches:

The State of Louisiana, to Marie Eugenie Tauzin and Louis Tauzin, her husband, of the parish of Natchitoches: You are hereby cited to appear in the office of the clerk of the said court, in the town of Natchitoches, in the parish, and comply with the prayer of the annexed petition, or file your answer thereto in writing, in the said office, on the fourth Monday in March instant, if ten days shall remain between the time of the service hereof and the said fourth Monday in March; but if so many days shall not remain, then in ten days after the service hereof. Witness the honorable John C. Carr, judge of the said court, this eighth day of March, one thousand eight hundred and thirty.

Signed, C. E. GRENEAUX, *Clk. of said court.*

Return.

March 14th, 1831. Served a copy of the within citation, with a petition annexed, on Marie Eugenie Tauzin and Lewis Tauzin, by leaving it with Mrs. Mary Tauzin, wife of Mr. Eugene, at the domicil of Lewis Tauzin. Mrs. Mary Tauzin is a white woman, above the age of 14, known to me personally.

Signed, HENRY JONES, *Dep. sheriff.*

March 28th, 1813, continued; April 27th, 1831, continued; June 3d, 1831, continued; June 27, 1831, continued; August 1, 1831, continued; September 1st, 1831, continued; September 26, 1831, continued; October 24th, 1831, continued; November 28, 1831, continued; December, 26, 1831, continued; January 23, 1832, continued; February 27, 1832, continued.

Moi, Arnaud Lauve, de la paroisse des Natchitoches, en ma qualité de tuteur de mon fils, Arnaud Lauve, et d'Edouard Murphy, Ophélie Murphy, et Adelle Murphy, enfans mineurs d'Edouard Césaire Murphy, décédé, j'autorise Mons. Charles E. Greneaux, de la dite paroisse, à me représenter dans le partage des terres provenant des successions Murphy, Smith, Barr, et Davenport, et Conners, sous le nom de *Las Ormigas* et *La Nana;* lui donnant le pouvoir et l'autorisant par le présent à signer tous actes nécessaires pour effectuer le dit partage d'une manière définitive; promettant et m'obligeant, en ma susdite capacité de tuteur, de ratifier tout ce que mon dit fondé de pouvoir pourrait faire à ce sujet, si j'en étais requis.

Donné au Natchitoches, ce 15 Mars, 1832.

(Signé) AR'D LAUVE,

Tuteur d'Arnaud Lauve, fils, et d'Edouard Murphy, Ophélie Murphy, et Adèlle Murphy.

March 27th, 1832, judgment by default.

Order.

March 31st, 1832. B. Leonard and James Bludworth appointed experts to appraise the land in the petition mentioned, and that a partition of the same take place as prayed for.

Decree.

ELIZA RUSSEL
vs.
SUCCESSION OF SMITH, BARR, and MURPHY.

Probate court.

In this case, it appearing to the court that all the parties interested have been duly cited to answer the plaintiff's petition, and the judgment by default not having been set aside, it is ordered, adjudged, and decreed, that a judicial partition be made of the two tracts of land called the La Nana tract and the Las Ormigas tract, as prayed for in plaintiff's petition, by dividing them into four lots of equal value, as will be designated in the plats thereof. It is further ordered, decreed, and adjudged, that Bernard Leonard and James Bludworth, esquires, be, and they are hereby, appointed experts to appraise said tracts of land, and to divide them into four lots of equal value, as prayed for in the petition; and let the lots, after having been made by the experts, be drawn for by the appropriators, as follows: Four tickets numbered one, two, and three, and four, are to be deposited in a box and each proprietor is to draw, and the number he may draw shall be adjudged to the

person drawing the same, and let the partition be made before Richard Fennessey, esq., notary public in and for the parish of Natchitoches; done in open court, this thirty first day of March, 1832.

Signed, JOHN C. CARR, *Judge*
Of the court of probates of the parish of Natchitoches.

Know all men by these presents, that we, Marie Eugenie Tauzin, wife of Lewis Tauzin, of the parish of Natchitoches, one of the heirs at law of Edward Murphy, late of said parish, deceased, and Louis Tauzin, her husband, also of said parish, do hereby constitute and appoint Mr. Charles E. Gleneaux, of said parish, our true and lawful attorney in fact to represent us before Richard Fennessey, esq., a notary public in and for the parish of Natchitoches, in a partition to be made between the heirs and legal representatives of Samuel Davenport, deceased, the legal representives of heirs of William Barr, deceased, the heirs and legal representatives of Luther Smith, deceased, and the heirs and legal representatives of Edward Murphy, deceased, by order of the honorable court of probates of the parish of Natchitoches; and we do hereby authorize our said attorney in fact to sign all acts, make all agreements, and do all other things necessary in the matter of said partition as fully as we could do were we ourselves present, and we give our said attorney in fact full and complete power to do what he may deem best for our interest in said partition. Natchitoches, April 2d, 1823, in presence of the undersigned witness.

(Signed) T. E. TAUZIN. *Témoin.*
EUGENIE TAUZIN.
Marque ⋊ ordinaire de LOUIS TAUZIN.

Be it remembered, that upon this second day of April, in the year of our Lord one thousand eight hundred and thirty-two, and of the independence of the United States of America the fifty-sixth, in pursuance of an order or decree of the honorable the court of probates of the parish of Natchitoches, in the State of Louisiana, bearing date the thirty-first day of March, in the year of our Lord one thousand eight hundred and thirty-two, I, Richard Fennessey, notary public, acting in and for the parish of Natchitoches aforesaid, duly commissioned and sworn as such at my office in the said parish of Natchitoches, and in the presence of Fenelon W. Ragland and Benjamin F. Chapman, both competent and subscribing witnesses and residents of said parish, did cause to come before me Eliza T. Russell and Samuel P. Russell, both of said parish; she, the said Eliza T. Russell, being hereunto assisted and authorized by her husband, the said Samuel P. Russell; also John Bernardo Benigno Davenport, of said parish; they, the said Eliza and John being the legal heirs of Samuel Davenport, of said parish, deceased. Also personally came and appear[ed] Robert Thompson, of Washington county, in the State of Pennsylvania, as the attorney in fact of the legal heirs of the deceased William Barr, to wit, John Huston and his wife Nancy, of Washington county aforesaid, David B. Kennedy and his wife Mary, John McNight and his wife Nancy, William Dim-

shee and his wife Acksah, all of the county of Alleghany, in the State of Pennsylvania. Also appeared John Laplace, of the said parish of Natchitoches, as attorney in fact of Mary Aspasia Gaillard, and of her husband, Raymond Pierre Gaillard, both of the city of New Orleans. Also appeared Charles E. Greneaux, as the attorney in fact of Marie Eugenie Tauzin, and her husband, Louis Tauzin, of the said parish of Natchitoches, and of Arnaud Lauve, senior, curator ad bona of his son, Arnaud Lauve, jun'r, and curator ad bona of Edward Murphy, and tutor of Ophelia and Adelle Murphy. And also appeared Victorine Metoyer, of said parish of Natchitoches, as tutor of Dennis Murphy; they, the said Mary Aspasia Gaillard, Marie Eugenie Tauzin, Arnaud Lauve, junior, Edward, Ophelia, Adelle, and Dennis Murphy, being the legal heirs of the deceased Edward Murphy, of said parish of Natchitoches. Also appeared Samuel Smith, of Little Falls, of Herkimer county, in the State of New York, representing as heir and owner the succession of Luther Smith, of bayou Tunica, parish of West Feliciana, in the said State of Louisiana. Whereupon, I, the said notary, in presence of the witnesses and parties aforesaid, did proceed to make an inventory of all the property in common between the said heirs of Samuel Davenport, William Barr, Edward Murphy, and Luther Smith, all deceased, said property being situated in said parish of Natchitoches, and of which said property Bernard Leonard and James Bludworth, esq., both of the said parish of Natchitoches, were appointed experts by the honorable the court of probates aforesaid, to appraise the same, and to divide it into four lots of equal value according to law; and said experts being duly sworn, said inventory and appraisement is as follows—that is to say, one tract of land situate in said parish, bounded on the west by the river Sabine, and known by the name of the Ormigas tract, represented by a plat of survey, dated July second, to August fourteenth, signed by Will. McLester, dep. surveyor, Peter Young and Thomas Ford, chain carriers; and which said tract is by said experts divided into four equal parts, as follows: No. 1, one-fourth part of the said tract in width, on the southern side of the said tract; No. 2, one-fourth part of the said tract in width, northerly of No. 1 and adjoining it; No. 3, one-fourth part of said tract in width, northerly of No. 2 and adjoining it; No. 4, the last and most northerly fourth part of said tract in width, and adjoining No. 3; the division lines all parallel, and running north sixty-six degrees, east and south sixty-six degrees, and west through the whole length of the tract aforesaid to the river Sabine. Also one other tract, called the Lanana tract, represented by a plat copied from the original plat by B. Leonard, parish surveyor of the parish of Natchitoches, signed by him, and dated November, 17th, 1831; and which said last tract is by said experts divided into four equal parts, as follows: No. 1, one-fourth part of the said tract on the east side; No. 2, one-fourth part of the said tract adjoining No. 1 and west of it; No. 3, one-fourth part of said tract adjoining No. 2 and west of it; No. 4, one-fourth part of the said tract adjoining No. 3 and westernmost of the whole tract; and both which said tracts,

to wit, the said Ormigas and Lanana, contain each the following number acres, as is said, to wit: The said Ormigas tract of land, two hundred and seven thousand three hundred and sixty superficial acres, estimated at five cents per acre, and making the sum of ten thousand and three hundred and sixty-eight dollars, ($10,368.) The said Lanana tract of land, containing, as is said, ninety-two thousand one hundred and sixty superficial acres, and appraised at five cents per acre, and making the sum total of four thousand six hundred and eight dollars, ($4,608.) Recapitulation of both amounts of said two tracts of land amounts to the sum total of fourteen thousand nine hundred and seventy-six dollars, (14,976.00.) Afterwards, to wit, upon the said second day of April, in the year of our Lord one thousand eight hundred and thirty-two, at said place, in presence of said parties, experts, witnesses, and notary aforesaid, the said tracts of land were divided according to law, and the will of said parties, into four lots of equal value, as follows, to wit: Number one of the Ormigas tract, and number one of the Lanana tract, forming the first lot, and termed number one; number two of the Ormigas tract, and number two of the Lanana tract, forming the second lot, and termed lot number two; number three of the Ormigas tract, and number three of the Lanana tract, forming the third lot, and termed lot number three; number four of the said Ormigas tract, and number four of the said Lanana tract of land, forming the fourth lot, and termed lot number four; and there being no more property to inventory, and no claims or debts against the succession aforesaid, all the proceedings aforesaid were closed. Whereupon the said parties, by mutual consent, proceeded to draw by lot for the lots aforesaid, and upon examining the same, it appears that the heirs of William Barr, represented by the aforesaid Robert Thompson, drew lot number four; that the heirs of Luther Smith, represented by the said Samuel Smith, drew lot number two; that the heirs of Samuel Davenport drew lot number one; and that the heirs of Edward Murphy drew lot number three; and there being no question or difficulty made or raised respecting the inventory or appraisement aforesaid, nor of the manner of making or drawing said lots, or respecting any other part or portion of the proceedings in the premises, and no deduction or collation to be made between the said parties, the present proceedings are therefore closed.

In testimony, the said parties, experts, witnesses, and notary aforesaid, have hereunto set their hands, on the day and year first above written, and at the place aforesaid.

(Signed,) Eliza T. Russel, Samuel P. Russell, J. B. B. Davenport, Robert Thompson, attorney in fact of the heirs of Wm. Barr; Jn. Laplace, attorney in fact of R. P. Gaillard and his wife, Marie Aspasia Gaillard; C. E. Greneaux, attorney in fact of Marie Tauzin and her husband, Louis Tauzin, and of Armand Lauve, senior, curator ad bona of his son Armand Lauve, junior, and curator ad bona of Edward Murphy, and tutor of Ophelia and Adella Murphy, Metoyer, tutor of Dennis Murphy; B. Leonard, James Bludworth, experts; F. W. Ragland, Benja-

min F. Chapman, witnesses; Richard Fennessey, notary public, acting in and for the parish of Natchitoches, in the State of Louisiana.

I, Richard Fennessey, notary public in and for the parish of Natchitoches, in the State of Louisiana, do hereby certify the above and foregoing to be a true and correct copy of the original, on file and of record in my office.

In testimony whereof I have hereunto set my hand, and in default of a public seal have also hereunto affixed my private seal, bearing on the impress thereby made the letters T. A., at my office, in the said parish of Natchitoches, upon the ninth day of April, in the year of our Lord one thousand eight hundred and thirty two, and of the independence of the United States of America the fifty-sixth.

(Signed,) RICHARD FENNESSEY,
Notary public, acting in and for the parish of Natchitoches, in the State of Louisiana aforesaid.

To the honorable John C. Carr, judge of probates in and for the parish of Natchitoches.

The petition of Eliza J. Russell, of said parish, authorized and assisted by her husband, Samuel P. Russell, respectfully represents: That, on the 5th of March, 1831, she filed a petition in your honorable court, praying that a judicial partition might be made of certain property lying and being in the parish of Natchitoches, held in community by the heirs and legal representatives of her late father, Samuel Davenport, the heirs and legal representatives of Edward Murphy, late of said parish, deceased, the heirs and legal representatives of William Barr, deceased, and the heirs and legal representatives of Luther Smith, deceased; that the said property, held in common, consisted of two tracts of land situate between the Red and Sabine rivers, and called the La Nana and Ormigas tracts. That, [on] the thirty-first day of March last, the parties interested having been legally cited, your honorable court ordered that a partition of the property held in common be made between the parties as prayed for, and appointed Bernard Leonard and James Bludworth, esq., experts, to appraise the property, and divide the same into lots of equal value, and ordered the partition to be completed before Richard Fennessey, esq., a notary public in and for the parish of Natchitoches. That the said notary proceeded, on the second day of April instant, to complete said partition in obedience to the order of court; the experts being present, and sworn, and also all the parties interested in said partition, either in person or by attorneys in fact. That the map being formed according to law, the lands were divided into four lots, and numbered one, two, three, and four; and, being drawn for, it appeared that the heirs of William Barr drew No. four; the heirs of Luther Smith drew lot number two; and the heirs of Samuel Davenport drew lot number one. That the lots were marked [and] described on a plat of survey of the Ormigas tract, dated July 2d to August 14th, signed by Will. McLester, deputy surveyor, and the Lanana tract represented by a plat copied from the original plat by B. Leonard, parish

surveyor of the parish of Natchitoches, signed by him, and dated November 17th, 1831; both which plats are herewith filed, with a copy of the process verbal of the proceedings by the notary. That the partition being completed, all the parties interested, with the experts and notary, signed the process verbal in the presence of two witnesses. The premises considered, your petitioner prays that your honorable court would summon all the parties interested in said partition, to wit, the heirs and legal representatives of the deceased William Barr, Luther Smith, Edward Murphy, and also her brother, John B. Davenport, to shew cause, if any they have, in ten days, why the partition made, as above stated, be not homologated. And as in duty bound will pray, &c.

(Signed,) BULLARD & SHERBURNE,
Attorneys for petitioner.

We accept service of citation of this petition.

(Signed,) Samuel Smith, heir and owner; Robert Thompson, attorney in fact of the heirs of William Barr, deceased; Jn. Laplace, attorney in fact of Marie Aspasia Gaillard and of R. P. Gaillard; C. E. Greneaux, attorney in fact of Marie Eugenie Tauzin and Louis Tauzin, and also attorney in fact of Arnaud Lauve, senior, tutor of his son Arnaud Lauve, junior, and of Edward Murphy, Ophelia and Adella Murphy; J. B. B. Davenport.

Court of probates, parish of Natchitoches, April 26th, 1833.

It appearing to the court that the parties interested in this case have been duly notified, and no opposition having been made to the partition made between them, it is therefore adjudged and decreed that the proceedings in the said partition, which took place before Richard Fennessey, esq., notary public, be and the same are hereby homologated.

Signed, C. E. GRENEAUX,
Judge of probates.

I, Frederick Williams, clerk of the probate court in and for the parish of Natchitoches, do hereby certify the above and foregoing to be a correct transcript of the proceedings in the case of Eliza Russell vs. Succession Smith, Barr, and Murphy.

In testimony whereof I have hereunto set my hand, affixed the seal of said court, this tenth day of May, one thousand eight hundred and thirty-three.

(Signed) F. WILLIAMS,
Clerk of probate court.

STATE OF LOUISIANA,
Parish of Natchitoches:

CLERK'S OFFICE, *Probate Court.*

I, Thomas P. Jones, deputy clerk of the probate court in and for the parish and State aforesaid, do hereby certify the above and foregoing to be a true and correct transcript of the proceedings in this case now on file and of record in my office.

Given under my hand and the seal of the said court, this 17th day of February, A. D. 1845.

[L. S.] (Signed) THOMAS P. JONES,
Deputy clerk.

The entry from the State Papers, title Public Lands, vol. 3, page 78, No. 46, report on the La Nana grant in 1816, as offered in evidence in the case of Yates and McIntyre vs. the United States, was, under an agreement made on the 3d of March, 1846, offered in evidence in this case, and is as follows:

No. 46. Edward Murphy, Samuel Davenport, William Barr, and Luther Smith, claim four leagues square of land situate east of the river Sabine, in that part of the country called the province of Texas. The following is a translation in substance of the document of title under which the land is claimed:

Edward Murphy represents to Don Maria Gaudiana, second lieutenant of artillery, and commandant military and civil of the post of Nacogdoches, that, having with *with* the knowledge of the predecessor of said commandant, established a vacheré at a place known by the name of Laguna de Juan Mora, on which he has paid tithes to the priest, and this not being sufficiently stocked with cane for his large stock of cattle, he asks a concession of a tract of land at a place called Nana, (mother,) on the east side of the river Sabine, about seven leagues from its margin, on the road from Nacogdoches to Natchitoches, to be taken by lines from the centre of the tract, to be each two leagues in length, making four leagues on each front of the tract, running north and south, east and west. 22d February, 1798.

EDWARD MURPHY.

At Nacogdoches, 1st July, 1798. The commandant orders that the proper officer shall put the petitioner in possession of the land solicited.

On the 1st of August, 1798, being on the land petitioned for, Joseph Cayetano de Sapeda, syndic, &c., certifies that, being on the land solicited, and having satisfied himself that there were no neighbors who could receive any injury from the possession of this land by said Murphy, the nearest inhabitant being at least eight leagues distant, he has put the said Murphy in possession, conformable to the decree of the commandant, by taking the said Murphy by the right hand, stepping several steps in each direction from the centre of the land, the said Murphy pulling up grass, cutting twigs, and taking turf, &c., as an evidence of the full possession of the land given, in presence of witness, in the name of his majesty, &c.; and as a further proof and evidence of possession, he has given to the said land the name of St. Pedro de la Nana, (St. Peter's mother.) Under date 4th of August, 1798, the commandant ratifies the possession given by the syndic, and concedes the land to the said Murphy as his full property, to be peaceably enjoyed, &c. On the 3d November, 1798, Edward Murphy conveys the land to the above named claimants. Bertrand Plaisance, before the board, 29th October, 1812, has deposed, that about sixteen years ago he

saw a tree on said road, marked with the letter P, which tree was newly marked, and stands about ten arpens west of where the road from Nacogdoches to Natchitoches crosses a small bayou called bayou Pierre, and about ten leagues west of the town of Natchitoches, at which time he was told by Samuel Davenport, one of the claimants, that said tree was a boundary mark of the above described tract of land; that at that time he saw another tree marked in the same manner, on the said road, about six leagues from the Sabine river, which he understood, from the same person, was marked as a boundary of the said tract; that an American, by the name of Burges, was settled on the land in question sixteen years ago, and that said Burges continued to reside there until about three or four years past, when he left the place, which was immediately occupied by a Spaniard; that Burges was employed by the claimants as a vacheré keeper, that large stocks of horses and cattle were kept on the land during the last sixteen years; that there is a house and a small farm on the land, which has been occupied and cultivated during the time above mentioned by the said vacheré keepers. The above evidence was taken in the claim of the above named claimants for a tract of six leagues square, reported under No. 49, but from the description of the situation of the land given by the deponent, it appears that he must have had reference to the claim under consideration. See note at the end of this report.

The entry from the State Papers, title Public Lands, vol. 3, page 79 and 80, and note at page 83, report on the La Nana grant in 1816, as offered in evidence in the case of Yates and McIntyre vs. the United States, was, under an agreement made on the 3d of March, 1846, offered in evidence in this case, and is as follows:

No. 47. Edward Murphy, 2,222.84 100th acres, situate east of the Sabine river, in the former province of Texas, claimed under a Spanish concession, of which the following is a translation in substance: Edward Murphy petitions for a tract of land on the bayou Hondo, in the limits of the province of Texas, where a cove is formed between the road leading from the bayou Hondo to the bayou St. John, and which cove forms a convenient situation for a vacheré, where the cattle of petitioner may be collected. 17th October, 1791.

Nacogdoches, 18th October, 1791. The commandant, knowing the land to be in the province of Texas, and vacant, grants it as solicited.

ANTOINE GIL Y LEARVO.

A plat of survey, by Samuel Cook, dated 7th December, 1806, is also filed with the notice.

Samuel Devanport, before the board, 6th May, 1814, hath deposed: That he has been an inhabitant of Louisiana for at least twenty-eight years past. That from the year 1798 to the year 1813, his settled residence was in the village of Nacogdoches, where, from having obtained from the commandant general of the internal provinces of Mexico the grant of an exclusive privilege to himself and his co-partner in trade

(a Mr. Barr) to carry on trade with the Indians, and from his particular intimacy with the several commandants and other Spanish officers at Nacogdoches, during the above period, he acquired an accurate knowledge of the Spanish usages in relation to the dispositions of lands in what was at that time understood to be the province of Texas. That he is perfectly acquainted with the Spanish language, and has so thorough a knowledge of the handwriting of the several commandants who have served at Nacogdoches between the terms above stated, that it is scarcely possible he could be deceived in any of them. That he has examined the documents filed in said claim, signed Antoine Gil Y Learvo, which he knows to be the signature of said Y Learvo, who, from circumstances within the knowledge of the deponent, and particularly from his having been removed from office, either in the year 1798 or the preceding year, to the best of the deponent's recollection, is known to have been commandant civil and military at Nacogdoches for near twenty years. The deponent further saith, that the document above referred to is in the form usual in conceding lands in said province at that date. The deponent further saith, that it is a fact well understood, that the commandants of Nacogdoches, from the remote situation of the post, were vested with full powers to concede absolutely any lands within the limits of the jurisdiction of Nacogdoches, which, until after the cession of Louisiana to the United States, was bounded on the east and south by the river Hondo, Lake la Terre, now bayou Casache, and river Kelkechute, and on the west by the river Trinity; that five of the internal provinces of Mexico were under the government of a commandant general, and these provinces separately governed by a governor within the same, whose business it was to make periodical visits to the several posts under his jurisdiction, for the purpose of redressing grievances and settling controversies between the inhabitants, but who always regarded the right of the commandants to concede as full and complete, without any ratification being necessary on his part. See note at the end of this report.

No. 48. Edward Murphy claims four leagues square on a lake called Juan de Mora, setting forth in his notice that the land is situate in the territory in dispute between the Government of the United States and his most Catholic Majesty, under a deed of conveyance from John Quingetty, which deed is in the archives of the province of Texas, at Nacogdoches. The notice of the claim is unaccompanied by any document. Bertrand Plaisance, before the board, 29th October, 1812, hath deposed, that the land was originally granted for a vacheré to a man by the name of John Quingetty, at least twenty-five years ago, and that it has been kept up ever since as a vacheré, having also a small part in cultivation every year, by those residing there as vacheré keepers. See note at the end of this report.

No. 49. Edward Murphy, Samuel Devanport, William Barr, and Luther Smith, six leagues square, say 211,570 2-100th acres, under a Spanish concession to Jacinto Mora, of which the following is a translation in substance:

Jacinto Mora, inhabitant of Nacogdoches, solicits six leagues square

of land on the east side of Sabine river, in the province of Texas, at a place called Las Ormigas, the place called the "Los Yndios," (or Indian ford,) to be in the centre of the front line, and the lines to run east, west, north, and south, at right angles. Nacogdoches, 14th November, 1795.

Under the same date, at Nacogdoches, Bernardo Fernandez, commandant of Nacogdoches, orders that the proper officer, José Cayetano, syndic, to put the party in possession of the land solicited, taking care that it shall not prejudice any other person. 2d December, 1795.

Joseph Cayetano de Sepeda, syndic, &c., in compliance with the order of the commandant, and in the presence of J. Moras, with the assisting witnesses, (using the same ceremony as in report No. 46,) puts the party in possession, and names the place St. Maria Adelaid of Ormigas. On the 15th December, 1795, John Bernardo Fernandez, lieutenant of cavalry and lieutenant governor of Nacogdoches, confirmed the possession given by the syndic, and concedes the land in perpetuity to the petitioner and his heirs, &c. On the same paper, and following the foregoing, is a transfer of the land from the said Moras to William Barr & Co., passed before the commandant, Dionisio Valle, dated 22d July, 1805.

Gaspard Boudin, before the board, the 29th October, 1812, hath deposed, "that the land has been made use of as a vacheré for the last thirty five years; that Edward Murphy has claimed the land from the time of his earliest recollection, he being now upwards of forty-six years of age; that stocks of horses and cattle have been kept on the said land constantly for the last thirty-five years, by persons employed by said Murphy; and that during that time there has been a house and small farm on the land, which was occupied and cultivated by those who resided on the place as stock-keepers. Bertrand Plaisance, aged thirty-eight years, deposeth, that the land above mentionod has been occupied as a vacheré, as above stated, for at least sixteen years, but he is not able to say for a longer time, as he was not in that part of the country at an earlier date 29th October, 1812.

Don Bernardo Dortolandt, of the county of Natchitoches, before Barthelemew Fleming, justice of peace of said county, the 14th March, 1814, hath returned the answers annexed, to the following interrogatories propounded by the board of commissioners:

Interrogatory 1. Do you know who were the commandants at Nacogdoches from the year 1791 to 1798?

Answer. Don Bernardo Fernandez was the first, and Don Jose Ma. Guadina, his successor in office.

Interrogatory 2. Do you know whether said commandants had the power of granting lands, and under what restrictions?

Answer. Yes, they were authorized; and conceded lands to the inhabitants in proportion of their stock, which was the sole restriction to whicb they were subject, and of which the procuror of the people had to give his opinion before they got possession and titles.

Interrogatory 3. Were those grants considered as complete titles, or as a mere permission to settle, subject to the future order of some superior authority or tribunal?

Answer. These grants were considered as complete titles, when executed in the manner following, to wit:

The individual presented to the commandant his memorial, praying the concession of a certain piece of land, situate as specified in the writing, and exposing his merit and right to such a gift. The commandant consulted with the attorney general, and they agreed that the petitioner merited the extent of land prayed for, or part of it; he ordered the attorney to put him in possession of all, or a part, according to the determination, without prejudice to a third. The attorney proceeded in consequence thereof, accompanied by the interested party, and two assisting witnesses, to the land, where, in the form prescribed by law, he put him in possession, according to the order, giving it all possible strength with his witnesses and the person receiving the gift, gives his proceedings to the commandant, who confirms them, and places them in the archives, and gives a testified copy to the individual, to serve as a title.

Interrogatory 4. Were grants of the extent claimed common in that country?

Answer. They were common, and were conceded for grazing ground, or increase the stocks; therefore, the inhabitants are few in that country, where they keep cattle, and possess land according to their means.

Interrogatory 5. Do you know Jacinto Mora, and had he claims on the Spanish government for larger grants than usually given?

Answer. I know Jacinto Mora. The time the Spaniards had the Adays, about forty years ago, who, with his family, claimed the land called the Ormigas, situate on the east side of the Sabine; since when he has had his pastures there, where he had cattle, cavalcades, &c., and that he has held in good faith since 1795; all which I know.

Interrogatory 6. Do you know the firm of Murphy, Barr, Devanport, and Smith, and had they, in consequence of any service rendered, any claim for grants of lands of greater extent than other individuals under the Spanish government? Relate all you know with respect to the said lands.

Answer. I know the above named company; that they had a large trading house at Nacogdoches for a long time; they were acknowledged as citizens of the government; had a great many persons in their employ; had large stocks, and, in consequence, needed large pastures. (they had the trade with the Indian nations of the north.) Which was all seen by the government; and I believe they merited much of it for their services with Indian nations.

The foregoing interrogatories being also put to Pedro Procela, of the said county of Natchitoches, at the same time and place as the above, and by the said Fleming, justice of the peace, he has answered in the same to each interrogatory, and hath added the following: "I also know Dionicia Valle, who was commandant of Natchitoches in 1805. I also know his signature, affixed to the testified copy of the title for the lands of Ormigas, granted to Jacinto Mora, and sold by him to Barr and Davenport. I also know the signature of J. Ma. Gaudiana, affixed to the sale given to the said company."

The deponents from probably not understanding the English language, have preferred answering the interrogatories in their native tongue, (Spanish,) from which the foregoing is a translation. See note at the end of these reports.

No. 5. Edward Murphy, 727 acres on the bayou St. John, claimed under a grant from the Spanish government. The notice of this claim is unaccompanied by any document of title. Gaspard Boudin, before the board 29th October, 1812, hath deposed "that a Spaniard, whose name is not known to the deponent, but is generally known by the name of St. John, settled on the land in question for said Murphy, fourteen years ago; and has continued to reside on, and cultivate the same ever since, without intermission, for the use and benefit of said Murphy, or his representatives, (said Murphy having died about three years ago). That said Murphy was the head of a family on the 20th December, 1803, and then resided in the county of Natchitoches. It is believed that the land claimed under this entry is embraced in the confirmation in favor of the heirs or legal representatives of said Murphy, by commissioner's certificate, No. 2,110 or 2,131. The confirmation of this claim, therefore, cannot be recommended.

Note from page 83 *as heretofore stated.*

NOTE.—Several claims entered with the deputy register, for the county of Natchitoches, are known to be for lands lying west of the Rio Hondo, and within that part of Louisiana, the United States' claim to which has been disputed by the Spanish government. The commissioners have not hesitated, on account of the doubt as to which nation the sovereignty of the country may belong, to decide on the claims of persons deriving their rights from acts of Congress, granting donations from occupancy, &c., because, however the question of sovereignty may ultimately be decided, no inconvenience, they conceive, could result from their decision; but, if the question should be settled in favor of the United States, there would be this advantage, that the inhabitants would be quieted in their possession.

The claims on this report, numbered 46, 47, 48, 49, 53, and 63, are also for lands lying west of the Rio Hondo, and the documents of title under which they are held have emanated from Spanish authorities at Nacogdoches, of whose powers and authority the commissioners have had no means of acquiring satisfactory information, and therefore decline deciding on those claims.

It will be seen that most of them are for very large tracts of land, which, from the tenor of the petitions, were designated principally for vacheré establishments. The commissioners have remarked, that to persons holding offices under the Spanish government, and persons who may have rendered services to the government, it has been customary to make very large concessions of lands.

That Samuel Davenport, William Barr, Luther Smith, and Edward Murphy, joint copartners in commercial houses established at Nacogdoches and Natchitoches, who are the principal claimants of the land thus circumstanced, did for many years enjoy, under the Spanish gov-

erntment, in the province of Texas, the exclusive right of trading with the Indians in that quarter, is a matter of public notoriety. Mr. Davenport, one of said copartners, has submitted to the board a number of original letters, from governors and other persons in authority in the said Spanish province, dated between the years 1804 and 1812, in which they are sometimes styled "Traders General." In one of those letters, the commandant of Nacogdoches, (Sebastien Rodrigus) informs William Barr, that the governor of the province, (Antonia Cordera,) had ordered him to furnish the said Barr with twenty soldiers, under the command of an intelligent sergeant, with ammunition and provisions for a voyage of two months, to enable Mr. Barr to explore and sound the mouths of the rivers Carriente, Sabine, and Antoyayue, travelling by land, &c.

In another letter to Mr. Barr from said commandant, he acknowledges the receipt of documents of observation, made for the purpose of ascertaining the mouth of the river Calcasuit, and hopes he will soon be furnished with the rest of his commission. In another letter, from Simon Eterrara to Samuel Davenport and William Barr, they are requested to furnish the troops of the quarter with provisions, and that they will be thanked for this new proof of being good servants to the king. In another letter to the same persons, from Governor Salcedo, it is stated that there is enclosed a memorandum of toys, goods, &c., for the use of the Indians in their jurisdiction.

From the foregoing, the commissioners are induced to believe that a part of the lands above alluded to may have been conceded as a recompense for the services and loyalty of the above named persons, and as a remuneration of disbursements which it is likely they may have made for the use of the government.

Signed duplicates. WILLIAM GARRARD,
LEVIN WAILES,
GIDEON FITZ.

By order of the board: LLOYD POSEY, *Clerk*.

The entry from the American State Papers, title Public Lands, vol. 3, page 73, being a tabular statement, as offered in evidence in the case of Yates & McIntyre vs. the United States, was under an agreement, made on the 3d of March, 1846, offered in evidence in this case, and is as follows:

LAND OFFICE, WESTERN DISTRICT,
State of Louisiana, *May* 4, 1815.

To the honorable Commissioner of the General Land Office, in the Treasury Department of the United States.

The undersigned, commissioners appointed for the purpose of ascertaining the rights of persons to lands within the district aforesaid, have the honor to report, in continuation, the following list of claims to land within the county of Natchitoches, classing the same agreeably to the order observed in their report made on the 16th of October, 1812, of claims in the county of Concordia; to which they beg leave to refer. (See vol. II, No. 217.)

Claims to land in the county of Natchitoches.

Reported No.	Register's No.	By whom claimed.	Original proprietor or claimant.	Quantity claimed.	Nature and date of the title or claim.	Class.
1	98	John Adley	Not mentioned	160 acres	Not mentioned	C
2		John Adley	John Adley	600 arpens	Spanish concession	C
3	127	John B'te Anty	Not mentioned	Not mentioned	Possession and occupancy	C
4	1	William Ash	Not mentioned	640	Settlement	C
5	2	Joseph Maria Armant	Joseph Maria Armand	Unknown	Spanish concession	C
6	D 160	Hypolite Bourdelin	Dehuste, an Indian	843 acres	Purchased from an Indian in 1790	C
7	3	John Burnet	John Cuyerrier	620.75 acres	Settlement by permission	C
8	261	François Bossié	François Bossié	237 arpens	Use of the timber	C
9	88	Mary, Ruth, Booker, and Wm. Etridge	Antoine Booker	One league square	Grant	C
10	132	Placide Bossié	Placide Bossié	312 acres	Spanish usages	C
11	2	Sylvester Bossié	Sylvester Bossié	800 arpens	Order of survey	B
12		Louis Godefroy Belhumeur	Pierre Gagnier	560 arpens	Spanish title, dated April, 1792	C
13		David Case	Maria Antoine	800 arpens	Order of survey	B
14	47	Alexis Cloutier	Alexis Cloutier	640 acres	Settlement	C
15	228	Pierre Cheletre	Joseph Maes	Not ascertained	Spanish patent dated in 1794	C
16	4	Samuel Coburn	Antoine Lenoir	585.40 acres	Settlement by permission	C
17	21	Louis Cleaseau	Louis Cleaseau	215 acres	Spanish grant	C
18	161	David Case	Widow St. Dennis	480 arpens	Not mentioned	C
19	54	Louis Cuyevrier	Antoine Poissot	640 acres	Settlement	C
20	184	François Dubois	Nicholas Mercier	280 arpens	Grant	C
21		Wm. Duncan & Alex. Bailie	Marsel de Soto	5,890 acres	Order of survey in 1763	B
22	143	Louis Fortin	Not mentioned	3.2 acres	Settlement	C
23		Benj. Goodin and Alex'r Bailie	Joseph Petit	480 arpens	Order of survey	B
24		Benj. Goodin and Alex'r Bailie	Baptiste Migneron	585.40 acres	Not mentioned	C
25		Benj. Goodin and Alex'r Bailie	A. Lenoir and M. Rombar	640 acres	Settlement	C
26		Antoine Grillet	Marin Grillet	280 acres	Spanish grant, 16 May, 1794	B
27		Maria Louisa Grillet	Marin Grillet	280 acres	Spanish grant, 16 May, 1794	B
28	89	Genevieve Gone	Not known	146.57 acres	Not mentioned	C
29		François Grappe	Cajadet, an Indian	8,296 arpens	Purchase from Indian	B

Claims—Continued.

Reported No.	Register's No.	By whom claimed.	Original proprietor or claimant.	Quantity claimed.	Nature and date of the title or claim.	Class.
30		Pierre Gagnier	John Sohano, a Christian Indian	213.13	Purchase and settlement	C
31	265	Antoine Grillet	François Le Vassure	280 arpens	Grant	B
32	264	Antoine Grillet	—— Dubois	54.99 acres	Settlement	C
33	74	Antoine Hymel	Widow Hymel	718.50 acres	Grant, dated 24 May, 1796	B
34	107	Nicholas Lauve	Not mentioned	Lot, village Natchitoches	Not mentioned	C
35	76	Thomas M. Leonard	Etienne Duget	640 acres	Settlement	C
36	1	Pierre Joseph Maes	Widow Dartigaux	Not ascertained	Grant, dated 16 May, 1794	C
37	1	Pierre Joseph Maes	Pierre Joseph Maes	Not ascertained	Grant, dated in 1794	C
38		Edward McLaughlin	Joseph Procello	400 acres	Settlement	C
39		Maria Louisa Mariotte	Antoine Bergeon	160 arpens	Settlement	C
40	60	Bertrand Mailloux	Santeago Faure	723 arpens	Spanish grant, 27 March, 1795	B
41	18	Pierre Mailloux	Not mentioned	46.77 acres	Settlement	C
42	155	Maria Jean, free negress	Joseph Bissounet	400 arpens	Not mentioned	C
43	13	Pierre Metoyer	Widow Alorze	Not ascertained	Purchased 15 February, 1778	C
44		Pierre Metoyer	Daniel Pain	Not ascertained	Purchased 7 June, 1771	C
45		Heirs of James Morrison	James Morrison	8,944.38 arpens	Spanish grant, 12 June, 1790	C
46		Edward Murphey and others	Edward Murphey	4 leagues square	Spanish grant, 1 July, 1798.	
47		Edward Murphey	Edward Murphey	2,222.84 acres	Spanish grant, 18 October, 1791.	
48		Edward Murphey	John Quingelty	4 leagues square	Spanish grant,	
49		Edward Murphey and others	Jacinto Mora	6 leagues square	Spanish grant, 14 Nov., 1795.	
50		Edward Murphey	Not mentioned	727 acres	Spanish grant.	C
51		Augustin Metoyer	William Le Brem	200 arpens	Order of survey. 8 June, 1797	B
52		John Nicholls	William Soderlin	700 acres	Complete title in June, 1798	B
53		Joseph Piernas	Jacinta Mora	26,280 arpens	Spanish grant.	
54		Margaret B. Prudhomme	Antoine St. Dennis	Not known	Not known	C
55		Theresa Mallette	Not mentioned	A league square	Grant which has been lost	C
56		Maria Louise Porter	Not mentioned	10 acres front	Settlement	C
57		Antoine Prudhomme	Jaques Le Vasseur	59 acres	Grant, dated 24 May, 1796	C
58		John B'te Piedfirm	A. Lenoir & J. B. Larenadier	1,600 arpens	Not mentioned	C

59	John B'te Piedfirm	Antoine Lenoir	800 arpens	Not mentioned	C
60	Charles Paire	Not mentioned	Lot in Natchitoches	Occupancy	C
61	Charles Paire	Athanaze Lecour	800 arpens	Order of survey, 18 April, 1789	B
62	Charles Paire	John B'te Dartigaux	640 arpens	Order of survey, 13 March, 1797	B
63	Maria Louise Porter	John B'te Dartigaux	2 leagues square	Spanish grant, 31 July, 1797.	
64	François Roquier, sen.	François Roquier, sen.	400 arpens	Grant, dated 22 August, 1796	B
65	Louis B. Rachel	Jaques Le Vasseur	59 acres	Grant, dated 24 May, 1796	C
66	Andre Rambin	Ignace Mailloux	259.51 acres	Order of survey	C
67	Andre Rambin	Cayacaille, an Indian & his wife	Not ascertained	Purchased from Indians	C
68	Andre Rambin	The Chevallier Poiret	Lot in Natchitoches	Not mentioned	C
69	Louis Barthelemy Rachel	Not mentioned	An island	Not mentioned	B
70	Barthelemy Rachel	Not mentioned	Not known	Spanish grant, 27 March, 1791	C
71	Madam B. Rachel	Louis Totin	Not ascertained	Spanish grant	C
72	Louis Simeon Rachel	Not mentioned	92.50 acres	Not mentioned	C
73	Pierre Rousseau	Pierre Rousseau	1,600 arpens	Order of survey, 12 July, 1786	B
74	John Sibley	Not mentioned	640 acres	Settlement	C
75	John Sibley	Not mentioned	Not ascertained	Not mentioned	C
76	Felix Trudeau	Not mentioned	640 acres	Settlement	B
77	Edward D. Turner	Nicholas Lauve and wife	730 arpens	Occupancy	C
78	Ed. Teal, A. Downey, and P. Sydee	Not mentioned	640 acres	Settlement	C
79	Noble Wilkins	Noble Wilkins	Not known	Order of survey, 6 May, 1795	B

The entry from the American State Papers, title Public Lands, vol. 4, pages 34, 35, and 36, as offered in evidence in the case of Yates and McIntyre vs. the United States, was under agreement, made on the 3d of March, 1846, offered in evidence in this case, and is as follows:

The first object of the board was to ascertain, from the best sources within their reach, the laws and customs of the Spanish province of Texas as regards the granting of lands, &c., the extent of the late Neutral territory, together with other information necessary to a satisfactory discharge of the duties imposed upon us; for which purpose, in default of every kind of authentic or public data, we were compelled to have recourse to the knowledge of individuals of respectability, who, from their situation or pursuits, were deemed best capable of throwing lights upon those points of inquiry. Samuel Davenport, Jose Maria Mora, Jose Flores, Gregorio Mora, Jose Bernardo Guitriez, and Juan Cortes, all of the parish of Natchitoches, to the following interrogatories, under oath, before the board, declared as follows, to the first, viz:

Were you acquainted with the organization of the government of the province of Texas, the powers and jurisdiction of its officers, and its laws, regulation, and customs, previous to the 20th of December, 1803, relative to grants of land, or the alienation of the public domain?

Answer of Samuel Davenport. I resided at Nacogdoches, in the province of Texas, early in 1798, where I lived until 1813; enjoyed all the rights and privileges of citizenship; became early acquainted with the internal organization of that government, and the powers of its officers, regulations, and laws, relative to the granting of land belonging to the royal domain.

Answer of Jose M. Mora. I was born and have resided within the jurisdiction of Nacogdoches, province of Texas.

Answer of Jose Flores. I was, at divers times, procurador of the comun of Nacogdoches, &c., and have put several claimants in possession under the decrees of the lieutenant governors and commandants.

Answer of Gregorio Mora. That he was employed as procurador in Nacogdoches, and knows the powers of the commandants and lieutenant governors for granting of lands within that jurisdiction; is an inhabitant of the Adais, and was born in Nacogdoches.

Answer of Jose Bernardo Guitriez. I am a Creole of the province of New St. Andre, one of the internal provinces of Mexico, and resided in the city of Revilla until the year 1811. That I am well acquainted with the laws and regulations that are in force in that province for the granting and disposing of vacant lands, and that they are the same as recognised in the province of Texas, from the titles and grants I have seen.

Answer of John Cortes. I have no knowledge of the proceedings of the Government of Texas relative to grants of land previous to the 20th December, 1803.

To the second cross interrogatory, viz:

Did the lieutenant governors and commandants of Nacogdoches,

each, possess the power of granting lands within their jurisdiction? If so, was there no limitation in the exercise of that right?

Answer of J. Davenport. The lieutenant governors and commandants possess the power to grant lands in their jurisdiction; were not limited by superior authority to specific quantities in the exercise of that right; and were only instructed to proportion their grants to the property, force, stock, and merit of the individual asking grants. The *procurador del comun* was the officer appointed to make the inquiry; put the petitioner in possession of the land prayed for, and executed the lieutenant governor's and commandant's order relative to the premises. It was not uncommon to grant large and extensive tracts of land for vacheries and stock ranges, not only in the province of Texas, but in all the "las provincias internas;" the raising of stock of every description being almost the only pursuit of the inhabitants of that country.

Answer of Jose M. Mora. It is to my knowledge that the commandants and the lieutenant governors, commanding within the jurisdiction of Nacogdoches, had the power to grant lands as far back as the year 1792, at which time a commissioner, having special orders, came with instructions and rules for the granting of lands, which rules and instructions were deposited among the public records, and governed the commandants and lieutenant governors in their grants since that time. Before the year 1792, the commandant of Nacogdoches gave only permits to settle for the purpose of cultivation, or for raising stock, without any other title of property, which he was not authorized to give. The commandants and lieutenant governors of Nacogdoches were not, to my knowledge, limited in the granting of lands to any specific quantity, but it was their duty to proportion the extent of the grants to the circumstances of the individual claiming them; and to that effect the procurador of the comun, named to put the party in possession, inquired into the merits and circumstances of the applicant, and if the grant was for stock farmers, it was customary to extend the concession to two, three, and four leagues square, according to the wants and merits of the claimants.

Answer of Jose Flores. That, having seen the answer of Jose Maria Mora, swears to the same facts; that he has been procurador of the comun of Nacogdoches at divers times, and has put several claimants in possession under the decrees of the lieutenant governors and commandants of Nacogdoches, according to the regulations of the country, and that they are the same which appear in the titles of Pedro Dolet, Jacinto Mora, and others, that he has seen.

Answer of Gregorio Mora. That, having seen the answers of Jose Maria Mora, swears to the same facts; that he has been employed as procurador in Nacogdoches, and that he knows the power of the commandants and lieutenant governors for the granting of lands within that jurisdiction.

Answer of Don Juan Cortes. In the year 1805, and since, I was informed, and knew by experience, that the lieutenant governors and commandants of Nacogdoches were in no respect limited as to the ex-

tent of lands they might concede; the quantity was always in proportion to the means of the applicant, and to the nature of the establishment he wished to make. If it was for cultivation, and raising animals of all kinds, and the means of the petitioner were known, they would grant to him a concession of from one to four leagues square, on which the claimant was put in possession by the syndic named for that purpose by the commandant, who afterwards approving in writing, "la prise de possession," was considered as amounting to a concession in form.

To the third interrogatory, viz:

Were grants signed by the commandant or lieutenant governor considered as vesting a perfect title in the claimant, or were they deemed merely inchoate rights to be perfected by a grant or patent under the signature of the governor of the province?

Answer of Samuel Davenport. All grants signed and confirmed by the lieutenant governor or commandant, executed in due form, were considered as vesting a complete title in the claimant without any further process, and were recognised as such by the governor of the province, particularly by Governor Salcedo, in eighteen hundred and ten, when at Nacogdoches, making his provincial visit.

Answer of Jose M. Mora, confirmed by the testimony of José Flores and Gregorio Mora. The grants given and signed by the commandants and lieutenants governors of Nacogdoches, made according to the instructions which existed since 1792, were always considered as perfect titles without any other formality.

Answer of Juan Cortes. Concessions signed by the lieutenant governor or commandant, were always considered as perfect titles.

To the fourth interrogatory, viz: What were the limits of the late Neutral territory, as considered by the ancient authorities of Texas and Louisiana?

Answer of Samuel Davenport. The Neutral territory comprehended all the tract of country lying east of the Sabine, and west of the river Culeashue, bayou Kisachey, the branch of Red river, called Old river, from the Kisachey up to the mouth of bayou Don Manuel, southwest of bayou Don Manuel, Lake Pierre Noir and Arroyo Hondo, and south of Red river, to the northwestern boundary of the State of Louisiana.

Answer of José M. Mora. I have no other knowledge of the Neutral ground, as to its boundaries, but from the Rio Hondo to the Sabine river.

Answer of Gregorio Mora. In the year 1794 and 1795, I collected the tithes of all the inhabitants who lived, or who had stocks, west of the river Caleashue, of the bayou Kisachey, of the bayou Don Manuel, and Rio Hondo, and south of Red river, which were at that time within the jurisdiction of Nacogdoches, and on the line of the province of Louisiana.

Did the Spanish authorities at Nacogdoches exercise jurisdiction over said scope of country?

Answer of Samuel Davenport. The inhabitants of the Neutral ter-

ritory were recognised as belonging to the jurisdiction of Nacogdoches, and the Spanish authorities considered their right of civil jurisdiction not taken away by the arrangement entered into between General Wilkinson and Governor Herrera, in the year eighteen hundred and six; yet it was seldom exercised or enforced.

It appears to be an historical fact, that the strip of country called the Neutral territory, was early disputed by the ancient governments of Texas and Louisiana, both alternately assuming and repelling jurisdiction over it; and, even after both provinces were united under the dominion of Spain, the dispute did not subside, but was kept alive and perpetuated by the jealousies of the local commandants. In this situation the United States acquired Louisiana, and the subject of controversy was not agitated until the convention between General Wilkinson and the Spanish commander, in 1806. A copy of this instrument could not be procured, but we were informed by John Cortes, a respectable merchant in Natchitoches, who acted as interpreter on that occasion, that nothing was therein decided as to limits; that both parties should withdraw their forces from the Neutral ground, and that the question of sovereignty should remain subject to the amicable adjustment of the two superior governments.

To the fifth interrogatory, viz: What is the nature of the soil within the late Neutral territory—rich and productive, or poor and barren?

Answer of S. Davenport. The whole tract of country or land within the Neutral territory is pine woods; of course a poor arid soil, with a few exceptions, of small quantities to be found adjoining to and on creeks and bayous, and fit for nothing but raising of stock.

Answer of José Maria Mora. The soil of the Neutral ground is mostly pine hills, and consequently very poor, and fit for nothing but the raising of stock, except some spots on the margin of water-courses, which can be cultivated.

Answer of José Flores and Gregorio Mora. Their answer is the same as that of José Maria Mora.

Answer of John Cortes. The quality of the lands in the Neutral territory is generally 'poco fertil.'

To the sixth interrogatory, viz: Are the public archives or records of the jurisdiction of Nacogdoches yet in that place? If not, what became of them, or how were they disposed of?

Answer of S. Davenport. The public archives and records of the jurisdiction of Nacogdoches are not at that place at present; they were removed and carried off by Don Jose Montero in 1812, then commanding at Nacogdoches, when he abandoned that place with his troops at the approach of Guthries and McGee, who were attempting to revolutionize the country; since which time, I have never known where those records were deposited, and believe from circumstances and facts to my knowledge, that the most part of them were destroyed at San Antonio, where said Montero carried them to.

Answer of José M. Mora. The public records of the jurisdiction of Nacogdoches do not exist in that place, and it is to my knowledge that,

n 1812, when the commandant, Don José Montero, left Nacogdoches with his troops, he took away with him all the records and documents belonging to, or concerning, the inhabitants of the jurisdiction, and I have never known since what had been done with them.

Answer of John Cortes. The archives of Nacogdoches were carried off by the royalist authorities, at the time of the invasion in 1812. I know that they were never brought back to Nacogdoches, but I am ignorant as to where they now are.

The entry from the American State Papers, title Public Lands, vol. 4, page 2, the whole report of 1824, as offered in evidence in the case of Yates and McIntyre vs. the United States, under an agreement made on the 3d of March, 1846, offered in evidence in this case, and is as follows:

18th Congress, 2d session, No. 415.

Survey north and south of Red river, communicated to the House of Representatives, December 27, 1824.

TREASURY DEPARTMENT, *December* 24, 1824.

SIR: In obedience to a resolution of the House of Representatives of the 14th instant, requiring the Secretary of the Treasury to inform "the House of the causes which have retarded the surveying of the public lands north and south of Red river; whether the said surveys are progressing; at what time the said public lands will be ready for sale; and whether any further legislative measures are necessary;" I have the honor to submit a report of the Commissioner of the General Land Office, together with four papers, marked A, B, C, D, which contain all the information required by the resolution.

I have the honor to be, your most obedient servant,

WM. H. CRAWFORD.

Hon. H. CLAY, *Speaker House of Representatives*.

GENERAL LAND OFFICE,
Washington, December 17, 1824.

SIR: In compliance with a resolution of the House of Representatives, dated the 14th of this month, in the following words: "Resolved, that the Secretary of the Treasury be directed to inform this House of the causes which have delayed the surveys of the public lands, and private land claims, in the district south and north of the Red river, in Louisiana; whether the said surveys are progressing, and if not, what are the reasons; at what time the said public lands will be in a state of readiness for sale; and if any further legislation be deemed necessary for the bringing of said public lands into market," and which has been referred to this office, I have to state, that the great body of the lands lying in the districts north and south of Red river, in the State of Louisiana, consist of piney barrens and extensive prairies; that the valuable lands are confined principally to the margins of water-courses emptying into the Mississippi swamp, and the swamp itself. This latter description of lands, except where the water-courses approach the prairies, are alluvial lands, covered with cane, and other growths, which make them very difficult to sur-

vey. Of the piney barrens and prairie lands, large quantities have been surveyed, and so small a portion of them has been sold, that it has been deemed proper to suspend, for the present, the surveying of this description of lands.

The lands adjacent to the water-courses being valuable, the private claims are confined almost exclusively to, and occupy a very great portion of, them; the only saleable lands, therefore, belonging to the Government in these land districts, with very slight exceptions, and which it is at present desirable to bring into market, is that portion of this description of lands which is interspersed among, and free from, private claims.

The surveys of these lands cannot be completed, nor can any sale of them take place, until all the private claims are located and surveyed.

The causes which have retarded and arrested the surveying of the private claims, are various. The following are, however, some of the most prominent.

The renewal and extension of the several acts for the final adjustment of land claims in these districts, and the revival of the fifth section of the act of 1811, relative to what is termed back or double concessions by the acts of 1820 and 1823. From the year 1804, until the present time, with a short interval, the several acts for the final adjustment of land claims have made it impracticable to close the township plats within which there were private claims in the district south of the Red river, in Louisiana; and these causes only ceased to operate in the district north of the Red river in 1823. The period for entering back concessions expired only in August last. These causes, in themselves, satisfactorily account for the delay, and show the legal impediment to the completion of the township plats in which there were private claims, and the consequent impracticability of bringing into market the public lands lying within such townships. See paper marked A.

Although these causes satisfactorily account for the impracticability of bringing into market the public lands interspersed among the private claims, yet that progress which the public had a right to expect in surveying the private and public lands thus situated has not been made, and which, even under existing difficulties, ought to have been made. This, among other causes, may be attributed to the death of the surveyor, Col. Freeman, in 1823, and the dismissal of his successor last spring; and up to the present time the progress of these surveys are arrested by attempts to locate fraudulent claims, and to make improper locations of claims that may, perhaps, have been properly recommended for confirmation.

It is believed that the reports of the land officers at New Orleans, dated the 20th November, 1816, and 6th January, 1821, and that of the register of the land office north of Red river, dated the 1st of January, 1821, include and recommend for confirmation many fraudulent claims, and claims not entitled to confirmation, and which claims were confirmed on their reports. Some of the claims contained in a report of the register at New Orleans have, I understand, been admitted to be fraudulent,

and I refer to the enclosed papers, marked B, for the information in relation to some of the other cases alluded to. From information received at this office, there is reason to believe that many similar and equally unfounded claims have been filed with the register at Opelousas, whose report, as required by the act of 1820, has not yet been returned.

The experience, talents, and indefatigable industry of the present surveyor, Mr. Davis, afford good reason to believe that the surveying of the public and private claims in the districts south and north of Red river, in Louisiana, will progress with as much expedition as the difficulties inherent to this portion of his duties will permit, and it is believed that a large portion of the lands lying on the Mississippi and Red river, in the district north of that river, will be prepared for sale in the course of the ensuing year. Surveys for part of these lands have lately been returned to this office, and may be proclaimed for sale at any time that may be deemed expedient.

Although it would seem that the causes which have delayed the surveys of the public lands and private claims in the districts south and north of Red river may be attributable, to a certain extent, to prolonged legislation, yet farther legislative provisions may be deemed necessary.

By an act passed on the 11th of May, 1820, entitled, "An act supplementary to several acts for the adjustment of the land claims in the State of Louisiana," the register of the land office at Opelousas was required to report to the Secretary of the Treasury all the claims filed with him in pursuance of that act, with his opinion thereon, by the 1st day of January, 1821. Many claims under that act were filed with the register, but he omitted to make any report in relation to them while in office, and his successor could not legally make such report. A letter, however, a copy of which, marked C, is transmitted, was addressed to the present register from this office, requesting him to make the report, with a view to submit it to Congress. Should this report not be received in time to be acted upon this session, it will be necessary to make some legislative provision for the case.

The act of the 31st of April, 1806, provides for the appointment of two principal deputy surveyors, with a salary of $500 each, and certain fees of office, in the territory of Orleans, and the act of the 3d of March, 1819, provides for an additional principal deputy.

This organization of the surveying department in Louisiana, was suggested with a view of accommodating the private claimants, and facilitating the surveying and patenting of their lands. If, however, we are to judge from results, it seems not to have been a happy one. A similar organization of the surveying department exists now in no other State; and in every other State or territory where there have been private claims, and they extend to all, there has been no such delay and difficulties incident to the surveying and patenting of the private claims as have occurred in Louisiana.

Previous to my coming into office, no patent had been issued in any private confirmed claim in that State; and since I came into this office, notwithstanding my attention was early drawn to the subject, but two

patents have been issued, and one of them was on a claim improperly recommended for confirmation, and improperly patented; it appearing, subsequent to the issuing of the patent, that it covered reserved public lands, occupied for public uses. This organization of the department has a tendency to divide responsibility, and to lessen that of the surveyor for the district, to whom alone this office can look for the due execution of all the surveying within his district. It is suggested, therefore, for the consideration of Congress, whether these offices ought or not to be abolished. So far as they are depositaries of the surveys and field notes, they may occasionally afford accommodation to individuals. The paper marked D contains an extract of a letter from me to the surveyor, Mr. Davis, on this subject, with his answer.

GEORGE GRAHAM,
The Secretary of the Treasury.

Extract of a letter from the Commissioner of the General Land Office, to Levin Waile, esq., surveyor south of the State of Tennessee, dated

GENERAL LAND OFFICE,
12*th September*, 1823.

The general object of my instructions to you has been to expedite, as far as practicable, the surveying of all that part of your district which is in any way connected with the surveying of private confirmed claims, and not to authorize, at present, the surveying of any townships unconnected with such claims, other than those which you had been instructed to survey previous to my communications. You are authorized, however, to contract for the surveying of any of the lands which you may deem it expedient to survey, under my former instructions, on bayous, lakes, &c., and in conformity to the second section of the act of the 3d March, 1811.

A.

Extract of a letter from the Commissioner of the General Land Office, to George Davis, esq., surveyor general, Washington, Miss., dated

30*th June*, 1824.

In relation to the views of this office, as it respects the surveying of public lands, private claims, and back concessions, in your surveying district, I must refer you to, and request your perusal of, the letters addressed by me to Mr. Wailes, of the following dates: 1823, July 18th, 27th; August 19th, 28th; September 8th, (circular;) September 12th; November 12th, 17th; December 19th and 31st: 1824, January 10th, 12th, 30th, March 4th, April 1st. To no one of these letters has a direct answer been given, so far as I recollect, by Mr. Wailes.

The principal object of these communications, and it is one to which I must call your particular attention, was to hasten the completion of the surveys of the private claims and back concessions in Louisiana, and to connect those heretofore made with the township lines, where such have been or are intended to be run, in order that the necessary returns may be made to this office on which patents could be issued.

In accomplishing this, all the residuary public lands adjacent to, and interspersed among, the private claims, would be ascertained and prepared for sale. These surveys will include nearly all the good lands in every land district in the State of Louisiana, which is at present desirable to bring into market, with the exception of the lands lying immediately on the Mississippi, above Natchez, and extending to the northern boundary of the State, the surveying of which, it is presumed, is nearly, if not quite, completed. Only two township plats, however, of these lands have been returned to this office. Until these objects are accomplished, the surveying of any other lands in this State of Louisiana should be suspended.

The several acts of Congress, allowing further time for the adjudication of private claims in the district of St. Helena and Opelousas, will occasion some legal impediment to the immediate final completion of the township plats of those districts. Nevertheless, much progress may be made in surveying and connecting with the township lines the private claims which have been heretofore confirmed, and the back concessions in Opelousas.

To the completion of the several series of surveys in the southeastern district, and of the plats of those townships containing private claims in the district north of Red river, there exists no legal impediment. And every effort should be made by you to have the surveys in those districts completed, and the plats returned to this office with as little delay as possible.

You will take every possible precaution to guard against the unnecessary resurvey of the public lands, or private claims, which have heretofore been surveyed and paid for, either by individuals or the public.

Copy of a letter from George Graham, esq., Commissioner of the General Land Office, to Samuel H. Harper, esq., register of the land office at New Orleans, Louisiana, dated

GENERAL LAND OFFICE, 19*th Sept.*, 1823.

SIR: On reference to the reports made by yourself and the receiver, bearing date the 20th of November, 1816, I find that the claims of Joseph Gabon and James Felice, on the Bayou Bœuf, for about one league front, and forty arpens deep on each side of the bayou, and the claims of Joseph Talbo and John Toledo on the Bayou Caillon, for similar quantities, must be considered as confirmed by the act of 1820; as these lands were not settled, and probably not surveyed, when the lands which we have lately advertised for sale on those bayous were run out, it is possible that there may be some interferences.

This fact should be ascertained by the principal deputy surveyor previous to the sale; and, if there is an interference, those lots covered by the private claims should be withheld from sale, provided the private claims have been surveyed on the lands designated in the original order of survey; and upon this point the principal deputy surveyor should be perfectly satisfied.

If the whole, or any part, of the claims above mentioned have been

surveyed, and if the designation in the original order of survey of the places of location on the respective bayous is so vague as to produce any doubt in the mind of the principal deputy surveyor as to the proper point of location, he will in that case take care so to survey them as not to interfere with the lands surveyed and advertised for sale by the United States, and he will make a special report of the facts in the case to this office.

The private claims on the Bayou Darbonne having been granted on account of settlement principally, I presume that there is no danger as to interference with them. It is possible, though I think not probable, that there may be some old grants on the Bayou Gros Tete, which may interfere with the lands proclaimed for sale; this should be inquired into previous to the sale.

Can you give me any information on the subject of the claim of the Chotamache tribe of Indians, on the bayous Plaquemine and Jacques? Do the Indians now occupy the land, or is it occupied by others? If so, under what title? The Indians, I presume, had no right either to lease or to sell the lands.

You will please furnish the principal deputy surveyor with a copy of this letter, for his information and guidance on the points mentioned.

I am, with great respect, &c.,

G. GRAHAM.

Extract of a letter from the Commissioner to S. H. Harper, esq., register, &c., New Orleans, dated

GENERAL LAND OFFICE, *October 12th*, 1823.

Having had occasion to refer to the claims of the Marquis de Lafayette, I find that you have, by your report dated the 20th November, 1816, recommended the confirmation of a claim, filed by Cooley, for two thousand acres of land, which interferes materially with the lands patented to the Marquis on the Mississippi, and adjacent to the bayou.

In your report of the case of Charles Grars, on which that of Cooley depends, you observe that the commissioners rejected this claim, and others of a similar nature, principally on the ground of abandonment, alleging "that the Spanish Government would, upon application, have granted the same land to others," and in which opinion you concur.

I presume, therefore, that you had no knowledge of the grant to the Marquis at the time you reported in favor of the claim of E. Cooley; for, if the Spanish government would have granted these lands on the application of an individual, it would seem the United States had the right to grant the land, particularly after the solemn decision of the commissioners, and that on the ex parte testimony of the claimant. I will thank you to furnish me with certified copies of all the papers filed in your office relative to the claim of E. Cooley.

GEO. GRAHAM.

Extract of a letter from J. Wilson, esq., principal deputy surveyor, to George Graham, esq., Commissioner of the General Land Office, dated—

NEW ORLEANS, *March* 13, 1824.

In a letter directed to the register, under date 19th September, 1823, (a copy of which was furnished me,) in relation to the claims of James Gabon and Joseph Felice, on the Bayou Bœuf, and J. Talbot and John Tolido, on the Bayou Caillon, I am directed to survey them in such manner as not to interfere with the lands surveyed and ordered for sale, provided the designation of the places of location is not pointed out in the original order of survey. As there are a great many claims similarly situated with those, (no place of location being designated,) I would beg leave to ask whether the same rule shall apply to them all, the claimants having, in many instances, selected the best land among the lots already surveyed, and located themselves upon them; should this be allowed it will create much confusion, and leave fractional lots to be sold, beside a very great loss to the Government, if left in the power of the claimants to select lands wherever they please. I would beg the favor of a reply, addressed to me at Donaldsonville.

With great respect, I have the honor to be, sir, your obedient servant,

J. WILSON,
Principal deputy surveyor.

Extract of a letter from the Commissioner of the General Land Office, to John Wilson, esq., principal deputy surveyor, Donaldsonville, Louisiana, dated April 15, 1824:

The recommendations of the register and receiver in favor of the claims of Gabon, Felice, Talbot, and Toledo, are evidently founded on the principles established by the 1st section of the act of the 12th April, 1814.

That act requires that the warrant or order of survey either should have been located, or that it should contain in itself a special location. The rule, therefore, for you to follow, in relation to these as well as other cases similarly situated, is to refuse to survey unless satisfactory evidence is produced to show that the land required to be surveyed is the particular land designated in the warrant or order of survey. And the rule should be particularly attended to in cases where the land has been surveyed by this Government, as the Spanish government never would have permitted a floating warrant to have been located on lands subsequent to the surveying of them by the Government, for any purpose whatsoever.

Yours, very respectfully,

GEORGE GRAHAM.

SURVEYOR'S OFFICE,
Washington, Miss., Oct. 16, 1842.

SIR: In a letter from me to the Commissioner of the General Land Office, dated August 16th last, speaking of the surveys of private claims north of Red river, I took occasion to remark, that "these surveys are progressing slowly at present, under orders from Mr. Wailes, before I

relieved him; that they should be executed at the expense of the claimants, on the ground, as I understand, that these claims being in fact donations, the evidence upon which they were confirmed having been false and fraudulent, the donation itself was sufficient loss to the Government, without the expenses of surveying being superadded."

The Commissioner, in reply to this part of my letter, observes: "I do not understand the distinction taken by Mr. Wailes in relation to the claims north of Red river. If evidence on which any claim has been confirmed is 'false and fraudulent,' it affects the validity of the claim, and not its classification; and, in all cases, where testimony is furnished to this office to show that a claim has been confirmed on 'false and fraudulent evidence,' patents will be withheld. I will thank you to call upon Mr. Wailes and ascertain the grounds he has for believing that there are any claims which have been confirmed on such testimony."

Whether the information that gave rise to the remark in my letter to the Commissioner was derived directly from yourself, or from Mr. Bramhall, chief clerk in this office, or from both, I do not now recollect; nor it is [is it] very important that I should, since, had the question of who should pay the surveying expenses been a doubtful one, which it does not now seem to be, the motive imputed to you as having influenced your decision, does you, in my opinion, great honor.

The conversations I have heard in relation to the manner in which the confirmation of many, or most of those claims have been obtained, as well in relation to the testimony offered to influence, in some instances, their location, are both shocking and astonishing.

I have chosen this mode of soliciting of you any information you can communicate on this subject, likely to be useful, in however small a degree, towards protecting the interests of the Government against a lawless combination of individuals.

I am, very respectfully, sir, your obedient servant,

G. DAVIS.

LEVIN WAILES, Esq.

WASHINGTON, MISS., *October* 16, 1824.

SIR: Most of the information I have had on the subject of the claims referred to in your letter of this date, just received by Mr. Winston, was derived from Kenneth McCrummen, esq., to whom, as he is now here, I beg leave to refer you, and recommend your reducing to writing such information as Mr. McCrummen will afford you. I shall answer your letter more fully in a few days. I write this in a hurry, that you may call on Mr. McCrummen before his departure for Louisiana.

I am, very respectfully, your obedient servant,

LEVIN WAILES.

GEORGE DAVIS, Esq., *Surveyor general*.

WASHINGTON,
Sunday morning, October 17, 1824.

DEAR SIR: In a letter I yesterday wrote to Levin Wailes, esq., I made inquiry of him, at the desire of the Commissioner of the General Land Office, respecting certain supposed fraudulent practices in a particular district of Louisiana, by means of which public lands have been converted, or are converting, into private property, without any valuable consideration being given in exchange for them.

Mr. Wailes, in a hasty reply, promises to answer me more fully hereafter, and, in the mean while, refers me to you as one from whom much useful information may be obtained.

As you are presumed to be intimate with Mr. Wailes, he will, no doubt, give you the perusal of my letter to him, as well as of his answer, by which means you will be better informed of the nature of my inquiries; and I solicit, and have the greatest confidence of obtaining from you, all the useful information you shall be able to furnish. I must beg of you to reduce it to writing, and leave nothing untold which you may suppose likely to be useful on the subject.

With great respect, your obedient servant,
G. DAVIS.

KENNETH MCCRUMMEN, Esq.,
Deputy surveyor, present.

WASHINGTON, 18*th October*, 1824.

SIR: The private claims to which you refer, and of which, by your letter dated yesterday, you desire me to afford you any information in my power, I understand them to be those filed with, and reported by, the register of the land office north of Red river, in the State of Louisiana. The task you have imposed on me is an unpleasant one. Nevertheless, as an officer acting under the authority of the Government of the United States, I consider it my duty to withhold no information from you which can tend to detect any fraud practised, or intended to be practised, on the Government.

It will be proper that I should particularize some of the claims which are said to be derived from settlements, which have been established by oral testimony. I begin with the claim of Richard Green, of *one league* square. I believe it will be found, by a recurrence to former statutes, under which the American Government provided for the adjustment of land claims in Louisiana, that a mere occupancy right could in no case exceed the quantity of two thousand acres; and this required an occupancy, as well as I can recollect, of ten years before the cession of Louisiana to the United States. If the occupancy commenced from a latter date, a settlement right could not exceed one mile square, six hundred and forty acres; no person could hold more than one such right, nor could he hold that if he held land under any other title from the Spanish government. It is within my knowledge, that this same Mr. Green, at an early date, filed his claim to a tract of land in the parish of Catahoula, and was confirmed

to the extent of 640 acres, by the commissioners for adjusting such claims at Opelousas. This ought to have barred his claim to the tract he now claims; but if this had been a valid claim, is it not strange and inexplicable that he did not enter it when he entered the first? I shall, however, show the whole ground of this claim to the tract of a league square, as I have it from Green's own witness. Philip O'Neal, whose testimony was taken before the late Reuben T. Sacket, then a justice of the peace, has, I understand, been made to testify that he, the said O'Neal, did, for some years before the change of government, say twenty-two or twenty-three years, occupy, inhabit, and cultivate the said land for the claimant, Richard Green. I do not pretend to state the testimony word for word. I only give what I understood to be the substance of it. Philip O'Neal answers me that his testimony has not been minuted by this justice of the peace as he gave it in; he has repeatedly said, to myself and others, that when a boy, about twenty years ago, perhaps about the time of the change of government, or a year or two before, he, said O'Neal, accompanied his father on a hunting excursion up the Rigolet, the water-course on which Mr. Green claims this land, at that time an unsettled wilderness, and for the purpose of getting cypress bark to cover cabins at that place, where his father then resided; that the getting this cypress bark was the only improvement which he, or his father, made on the place; that, three or four years ago, Dr. Green came to him, O'Neal, and offered him $50 for the improvement so made; that he informed Dr. Green that he did not pretend to have any claim to the land; but, Green insisting on giving him the fifty dollars, he agreed to let him have the claim, such as it was, and such as he has stated it to be. That, a few months afterwards, he was cited before T. T. Sacket to give testimony in the claim of Richard Green; and that, when on oath, he made the statement corresponding with the foregoing information, and no other.

Louis L. Huffman is another person who has obtained the confirmation of his claim, under the report of the register north of the Red river, for a tract of 640 acres of land. He had originally claimed a tract with ten arpens of front, with forty arpens in depth, say 400 arpens, equal to 338 acres, to which extent his claim was confirmed by the register and receiver at Opelousas. To obtain an enlargement of this tract, he has found it convenient to claim, (on the same ground in part,) 640 acres, for which he has obtained confirmation. A reference to former acts of Congress will show that he ought to have been confirmed to his first claim, if indeed, he was legally entitled to that.

The heirs of Benjamin Miller claim under the settlement of their father. One claim lying in the parish of Catahoula, has already been confirmed to Benjamin Miller for 640 acres. This by former acts of Congress ought to bar the claim filed with the register at Ouachita, for the benefit of his heirs.

Adam Huffman has also a claim favorably reported on by the register north of Red river. The father of the claimant, whose name was Adam also, with some of his neighbors, erected cowpens on this land, proba-

bly for the purpose of gentling their wild cattle; the son has found it convenient to call it a stock farm; and he has produced, as I suppose, such testimony as satisfied the register north of Red river that his claim was a valid one. On this ground there appears a small improvement, which I know to have been made only five years past, by some woodcutters, who remained three or four months on the land, cutting and carrying away the public timber.

August O'Neal's claim is of so little value that the inhabitants neither care or say much about it, thinking the loss will not be great to the Government if they should be swindled out of it. There is no improvement on it, however, that appears to have been made longer ago than eight or ten years, perhaps long enough since to entitle him to the rights of preference to purchase from the United States. I have no better opinion of the claims said to have been founded on concessions from the Spanish government, and filed with the register north of Red river at Ouachita. It is possible, and barely possible, that there may be some few valid and honest claims among them; but it is my opinion, and that of the most respectable inhabitants of the parishes of Natchitoches and Rapides, that the far greater part of these documents are base counterfeits. It is true, I have seen none of those papers myself, but I have heard respectable persons, and good judges, who have seen many of them, speak publicly of them, not only as counterfeits, but very bungling counterfeits. Besides, I have inquired of the most ancient and respectable inhabitants of both these parishes, who answered me that they never before have so much as heard the names of any of the persons to whom those large and valuable tracts of land are said to have been granted by the Spanish government.

I have, myself, been very generally acquainted in the parishes of Rapides, and Natchitoches, and Catahoula, for about 16 years. I have never heard the names of any of these grantees before; nor do I believe the names of any of them are to be found on any records of either of those parishes. In short, the whole thing is ridiculed and contemned, by every honest man in the northern district, as a base attempt to defraud the Government. It is a curious fact, that all those grants are, although purporting to have been made some thirty or more years ago, (or part,) are for the most part far the most valuable lands in the State, in situations which were totally unknown to any civilized man until long since the cession of Louisiana to the United States; and not until, by the running and marking the public lines, facilities were given by which the country could be examined.

If the act of Congress confirming the claims under consideration has not placed them on a footing beyond the control of the Government, I do not hesitate to say, that it is my belief that the Government would save a million of dollars, at least, by ordering all the documents of title, which were filed with either of the registers, in that part of Louisiana called the Territory of Orleans, under the last acts granting indulgence to land claimants, to be transmitted to the seat of Government, and there

scrutinized and investigated by gentlemen well acquainted with such documents, and competent to judge of their authenticity.

I am, with great respect, sir, your obedient servant,

KENNETH McCRUMMEN.

GEORGE DAVIS, ESQ.,
Surveyor general, south of Tennessee.

SURVEYOR'S OFFICE, WASHINGTON, (MISS.,)
October 23, 1824.

SIR: The correspondence between myself and Messrs. Wailes and McCrummen, of which a transcript is herewith enclosed, in relation to the land claims confirmed by the second section of the act of Congress of the 28th February, 1823, has resulted from the request made in the closing part of your letter to me of the 11th ultimo, to which I have but a single additional remark to offer; that, if all that I daily hear upon the subject be not mere idle stories, it will require but a little further indulgence by Congress, to the persons for filing notices of claims, to wrest from the Government all the lands in that interesting district of Louisiana worth being surveyed.

I have the honor to be, with great respect, sir, your most obedient servant.

GEO. DAVIS.

GEORGE GRAHAM, ESQ.,
Commissioner of the General Land Office, Washington city.

P. S. No other letter has been received from Mr. Wailes.

Extract from a letter from George Davis, esq., surveyor, &c., dated

WASHINGTON, MISS., *Oct. 29th*, 1824.

SIR: I have been so beset, for two or three days past, by a land claimant, under the second section of the act of the 21st of February, 1823, of the name of Bowie, that I have been able to think of scarcely any thing else. A deputy surveyor, Mr. Milo Johnson, had been surveying claims of this kind, and chiefly for this individual, slowly, for about a year previously to my arrival here, under orders from Mr. Wailes, and I found a considerable bundle of his papers in the office when I took possession of it; they had laid dormant ever since, until within a few days past.

The claimant is extremely anxious to obtain my approval of Johnson's locations, in order to facilitate the lands to squatters. When any of those squatters are found on good tracts of land, these locations are laid on them; and after the parties come to an understanding on the subject, the squatters are found ready to assist in the most iniquitous means of defrauding the Government, or so says report.

In one instance, and it was the first presented to my notice, the location is laid on a bayou, called in all the maps that I have seen, as well as by the present inhabitants of the vicinity, Bayou Tensas. Whereas his claim called for Bayou Mason, (in French, Maçon,) situated a con-

siderable distance further from the Mississippi than the former, and both running nearly parallel to it.

B.

Extract of a letter from George Davis, esq., surveyor south of the State of Tennessee, dated Surveyor's office, Washington, Mississippi, November 1, 1824:

SIR: In your letter of general instructions of the 30th of June last, you seem to suppose that all the good lands on the Mississippi, between Natchez and the north boundary of Louisiana, in that State, had been already surveyed. Whatever public land may still remain to be surveyed, the maps transmitted with my letter to the General Land Office, of the 22d ult., in addition to the two some time previously forwarded by Mr. Wailes, comprehend the whole that has yet been surveyed in that part of the north of Red river district.

Being about to enter into a contract with Mr. E. S. Ludlow to complete the survey of these lands, between the part heretofore surveyed by him and the north boundary of the State of Louisiana, I transmit herewith a copy of a draught of that part of the work, the exterior lines of which have been heretofore surveyed and paid for by Mr. Wailes.

This draught is forwarded for the double purpose of presenting a portion of the work upon which the accounts of Mr. Wailes have been founded, and of exhibiting a location recently attempted to be made on lake Providence and Bayou Tensas, of two private claims, the confirmation of which, by the 2d section of the act of February 28th, 1823, called for Bayou Maçon, situated a considerable distance further from the Mississippi river than the former.

You will find these claims on the list in the name of Juan Gonzales, and Francisco Andante;* the real claimant is, however, named Bowie. I have declined approving the surveys on account chiefly of their mislocation, or of their being laid in a part of the country not warranted by the grant.

I transmit the affidavits of two individuals, said to have been squatters on those lands; they were obtained by the claimant in order to induce the surveyor to make the location. It is acknowledged, I believe, on all hands, that the bayou is still called Tensas. In relation to these locations, I shall only further remark, that it is pretty confidently believed by some, that the real Bayou Maçon derived its name originally from a noted river pirate named Mason, who had his haunts on it in the year 1804–'5, and who was killed by one of his own men in order to secure the reward offered for his capture by the proclamation of Mr. Jefferson, while President of the United States. Happening to be in this village myself when the fellow came here to demand his reward, I can have no doubt of the time; and were the fact established that the etymology of the name of the bayou has been correctly ascertained, it would destroy the validity of the claim altogether, as the claims themselves look as far back for their origin as 1788 and 1789, respectively.

*Nos. 23 and 31, first class.

C.

GENERAL LAND OFFICE,
September 7th, 1824.

SIR: Your predecessor, Mr. Wailes, made no report to this office relative to the claims filed with him, agreeably to the provision of the 2d section of the act supplementary to the several "acts for the adjustment of land claims in the State of Louisiana," passed the 11th May, 1820. As the surveying of the private claims, which have heretofore been confirmed in your district, cannot be so closed as to give to the claims their respective sectional *members*, until all the claims in each township shall have been finally acted upon, and much time will be lost, and the claimants generally, as well as the public, subjected to great inconvenience by delaying the returns until a special act of Congress can be procured, which shall authorize you to make the report that was required by law of Mr. Wailes, I take the liberty of suggesting the propriety of your investigating and reporting on the claims which have been filed with Mr. Wailes, when register, within the period prescribed by the act above mentioned. Your report would be submitted to Congress, and I have no doubt would be acted upon by them in the same manner that any report would be, which would be made under any act that might be passed at the next session, authorizing you to report on these claims.

In making your report you will confine yourself to the provisions of the act which limits your jurisdiction to claims founded on Spanish grants, concessions, or orders of survey, and which shall have been filed with your predecessor previous to the 31st day of December, 1820.

These restrictions are equally applicable to the claims provided for by the 2d and 4th sections of the act.

As to the form of your report, and the classification and numbering of the claims, I would refer you to the report made by Mr. Wailes, and Gerard, dated the 30th December, 1815, which affords the simplest form in which the substance of the evidence in each case may be embodied.

It is possible that Mr. Wailes may have neglected to file some of the claims which may have been presented to him previous to the 31st December, 1820, or the evidence of their having been filed may have been lost. In such cases you will make a special report, accompanied by the evidence that the claim was filed within the period limited by law.

In addition to the fees for recording specified in the act, a part of which I presume Mr. Wailes has received, a further sum of six hundred dollars is allowed to the register for making this report, which Mr. Wailes has not received, and which would be paid to you whenever Congress should act upon the report.

I am, &c., GEORGE GRAHAM.

To VALENTINE KING, Esq.,
Register of the Land Office, Opelousas, La.

D.

Extract from a letter from the Commissioner of the General Land Office, to George Davis, esq., dated August 27, 1824.

Should you find, on due examination, that your principle deputy surveyors are not qualified, or are inattentive to their duties, you should remove them. I have great doubts whether that part of the organization of the surveying department has, in any manner, facilitated the surveying the private claims. Measures should be taken by you to give more efficiency to this branch of the department, or it ought to be abolished.

Extract from a letter from George Davis, esq., surveyor of public lands south of Tennessee, to the Commissioner of the General Land Office, dated 25th October, 1824.

Having nothing to conceal, I must beg permission to state that the law does not, in effect, put the office of the principal deputies under the due control of this office, simply because the salary and legal fees and perquisites of them will not command the services of any man, under fifty years of age, who possesses the necessary talents and industry to perform the duties of them, if their pecuniary circumstances be above those of absolute pauperism. This, sir, is an unpleasant, perhaps a dangerous truth; but my situation imposes upon me no duty more imperative than that of telling it. In doing it I have no private views to subserve, no friend with whom I wish to fill a vacancy. On the contrary, I know of no proper person acquainted with the really arduous duties that would be required of him, who would be willing to accept of one of those appointments with an intention at the same time of performing them. This the present incumbents know; and hence it results, that if any substantial services are required of them as an equivalent of their salaries, they are ready to resign.

The entry from the American State papers, title Public Lands, vol. 4, page 60, No. 180, as offered in evidence in the case of Yates and McIntyre vs. the United States, was, under an agreement made on the 3d of March, 1846, offered in evidence in this case, and is as follows:

180. Samuel Davenport, the heirs and representatives of Edward Murphy, deceased, all of the parish of Natchitoches, the heirs and representatives of Luther Smith, of the State of New York, and the heirs and representatives of William Barr, deceased, of the State of Pennsylvania, filed their notice, claiming a tract of land, being within the late Neutral territory, lying east of the Sabine river, on the public road from Natchitoches to Gaines's ferry, on said river, at a place called "La Nana," having for its centre the prairie which joins the bayou of said "La Nana," to extend two leagues towards each cardinal point, so as to form a perfect square of four leagues on each front line, the centre to be said prairie, claimed by virtue of a grant approved and signed by Don Jose Maria Guadiana, commandant of the post of Nacogdoches, the 4th of August, 1798, in favor of said Edward Murphy,

who, on the 3d of November, 1798, conveyed the same to the commercial partnership then existing between himself, (said Murphy,) Davenport, Smith, and Barr. The claim is supported by authenticated documents, of which the following are translations:

MR. LIEUTENANT GOVERNOR: Don Edward Murphy, of the vicinity of Nacogdoches, appears before you by petition, and saith, that from three to four years last past I have had, in the jurisdiction of Nacogdoches, now under your command, with the knowledge of your predecessors, the former commandants, at the place known by the name of Juan de Mora lake, kept cattle and other animals, for which, until this date, I have paid the duties of tenths; and finding said place scarce of cane range for the preservation and increase of said animals, I have recourse to you, praying for a grant for a tract of land at the place called "La Nana," situated on the east side of the river Sabine, about seven leagues from its margin, and on the road leading from the town to the post of Natchitoches; said tract of land, from its centre, which is the prairie joining the bayou of the aforesaid "La Nana," and immediately on said road, to extend two leagues towards each cardinal point, so as to form a perfect square of four leagues in length each front line, the centre to be said prairie, so that in this space of land I may have a sufficient range for my present and future stock.

E. MURPHY.

Nacogdoches, February 22, 1798.

Pass this petition to the procurador, that he may leave in possession of the land the interested person as described.

GUADIANA.

July 1, 1798.

The 1st of August, 1798, in compliance with the foregoing decree, I, Don Jose Cayetano de Zepeda, syndic and procurador of this jurisdiction of our Lady of the Pillar of Nacogdoches, accompanied by my assisting witnesses, Juan Jose Medina and Jose Domingues, went to the place called "La Nana," in order to establish in said place of La Nana Don Edward Murphy, who is present, and give possession, in pursuance with the preceding order; and being at said place, after having inquired if there were adjacent neighbors, and being well assured the nearest was Mr. Charboneaux, distant about eight leagues from said place of La Nana, and finding no impediment, put Don Edward Murphy in possession of the vacant land prayed for in his petition, *which* the extent and boundaries therein expressed; visited the limits and territory with the before named witnesses and said Edward Murphy; the two leagues by the said road of St. Antonio de Bexar, westward, reaching to the Chupaderas; and other two leagues of land towards the east, which reaches by the said road to the Bayou Tarsan; with two leagues to the north, and other two leagues to the south; and taking him, the said Murphy, by the hand, walked with him a number of paces from north to south, and the same from east to west, and letting go his hand,

he walked about at pleasure on the said territory of La Nana, pulling up weeds, made holes in the ground, planted posts, cut down bushes, took up clods of earth and threw them on the ground, and did many other things in token of the possession in which I had put him, in the name of his Majesty, of said land, with the boundaries and extension as prayed for. And in demonstration of the right which he already holds in said land, as the only proprietor by virtue of this act of possession, and for further evidence of the right of sovereignty which he has forever acquired over said land of eight leagues, two towards each of the cardinal points, in the manner, place, and boundaries, expressed in his aforesaid petition, with the servitudes, uses, customs, and privileges which he, the said Murphy, has, I gave the whole mentioned territory of "La Nana," which includes a square of eight leagues, the name of "San Pedro of the Bayou of La Nana." And the said Edward Murphy, being and remaining in entire and peaceable possession, in conformity to law and right, of all the aforesaid land, as a proof and evidence of which I have signed this act of possession, with the aforesaid witnesses, at the place of St. Peter of the Bayou of "La Nana," the same day, month, and year.

JOSE CAYETANO DE ZEPEDA.

JUAN JOSE MEDINA,
JOSE DOMINGUES,
Assisting witnesses.

At the post of Nacogdoches, the fourth day of the month of August, 1798, I, Don Jose Maria Guadiana, 2d cornet of the company of Montclova, and military and civil commandant of said post, have ordered that, in virtue of the possession of land given to Don Edward Murphy, as aforesaid, without any opposition, the original document be placed in the protocol of said post, to serve as evidence of the same, and that there be given to the interested person a certified copy, as a title for the property.

In testimony of which I have authorized this act, which I have signed, with two assisting witnesses, with whom I have acted for want of a public notary, and on this common paper, for want of stamped. To all of which I give faith.

JOSE MARIA GUADIANA.

JOSE LOUIS DE LA BEGAR,
PEDRO LARA,
Of assistance.

This claim was entered and filed with the former board of commissioners, where it was supported by testimony that does not appear here. The whole, however, was reported by that board, with claims to land in the county of Natchitoches, under No. 46, and to that report we beg to refer.

Being of opinion the claim ought to be confirmed, we have classed it with claims of the first class.

The entry from the American State Papers, title Public Land, vol.

4, page 61, No. 181, as offered in evidence in the case of Yates and McIntyre vs. The United [States,] was, under an agreement made on the 3d of March, 1846, offered as evidence in this case, and is as follows:

No. 181.—Samuel Davenport, the heirs and representatives of Edward Murphy, deceased, of the parish of Natchitoches, the heirs and representatives of Luther Smith, of the State of New York, and the heirs and representatives of William Barr, of the State of Pennsylvania, filed their notice, claiming a tract of land lying within the late Neutral territory, situated on the east margin of the Sabine river, at a place called "Las Ormegas," having such marks and boundaries as is represented in the plat of survey made by William M. Lester, deputy surveyor of the United States' lands, and containing six square leagues, equal to 207,360 acres, claimed by virtue of a concession signed by Bernardo Fernandez, lieutenant governor of the jurisdiction of Nacogdoches, dated 15th of December, 1795, in favor of Jacinto Mora; which land said Mora, by act of sale dated 22d of July, 1805, transferred to William Barr and Co., a firm composed of said William Barr, now deceased, Samuel Davenport, Edward Murphy, now deceased, and Luther Smith, now deceased. The claim is supported by an authentic copy of the original acts, of which the following are translations:

Mr. Lieutenant Governor: Jacinto Mora, inhabitant of this village of our Lady of the Pillar of Nacogdoches, with due respect, appears by petition before you, and says, that on the east side of the river Sabine, at the place called "Las Ormigas," distant from the aforesaid village about twenty-five leagues, I have my stock of horses, and where it is my intention to establish a stock farm for the raising of mules, horses, horned cattle, sheep, and hogs, and likewise cultivate the soil; in virtue of which, I pray you will be pleased to grant me, for that purpose, a title of property for myself, my heirs, &c., six leagues square of land at the above mentioned place of "Las Ormigas," the principal front or western boundary to extend north and south six leagues, so that the centre of the said line will be opposite the Indian crossing place on said river Sabine; the north line to begin at the northern extremity of the said front line, on the east bank of said river, and extending six leagues east, forming with the front line a rectangle; south line to commence at the southern extremity of the aforesaid front line, and extend six leagues east, forming, also, with the other a rectangle; the line on the east side to commence at the extremity of the north line, and running parallel with the said river, until it joins the extremity of the south line, so that the prairies and plains of the above Ormigas will be included in the square of the four fronts of six leagues in length, each formed by the expressed four lines. In consequence, I pray you will have the goodness to grant me the aforesaid six leagues square of land at said Ormigas, and in the manner prayed for, it being vacant, and no inhabitant near that such a grant can prejudice. And your petitioner, &c.

JACINTO MORA.

Nacogdoches, November 14, 1795.

NACOGDOCHES, 14*th November*, 1795.

The syndic procuror of this jurisdiction, Don Jose Cayetano de Zepeda, will establish the petitioner in the aforesaid place, and in the manner asked for, if vacant, and not prejudicial to any inhabitant proprietor of land, observing all the usual formalities of style, and extend the proceedings had in continuation for the more effectual confirmation of the title of property.

BERNARDO FERNANDEZ.

On the 2d day of December, 1795, I, Don Jose Cayetano de Zepeda, syndic procuror of this district of our Lady of the Pillar of Nacogdoches, in conformity to the foregoing decree, accompanied by the assisting witnesses, Don Jose de la Bega and Juliano Grande, went to the place called "Las Ormigas," situated about twenty-five leagues from said town of Nacogdoches, and on the east side of the Sabine river, in order to establish the said Jacinto Mora, then present, and give him possession in conformity to the foregoing order. In compliance with which, being on said premises, after having inquired if there were any inhabitants near in order to cite them to be present, and being assured that the nearest lived at least ten or twelve leagues off Las Ormigas, and that their possessions did not reach within three or four leagues of the boundaries pointed out by Jacinto Mora in his aforesaid petition, for which reason no injury could be sustained by the nearest neighbor from putting the said Jacinto Mora in possession of the vacant land he solicits, with all the extent and limits, I visited the boundaries and territory they embraced, with the assisting witnesses, and the said Jacinto Mora; and, taking him by the right hand, walked with him a number of paces from north to south, and the same from east to west, and letting go his hand, he walked at pleasure on said territory of Las Ormigas, pulled up weeds, made holes in the ground, planted posts, cut bushes, took up clods of earth and threw them on the ground, and did many other acts and things in proof of the possession I had given him, in the name of his Majesty, of the said land, with its boundaries and extension as prayed for by him. And in further demonstration of the rights and sovereignty he holds in it, as the only proprietor by virtue of this act of possession, and for the more abundant proof of the property which he has acquired in said land of six leagues square, in the manner, place, and boundaries as expressed in his petition, with all the uses, privileges, and appurtenances thereunto belonging, and which he holds in said territory of "Las Ormigas," forming a square of six leagues each front in length, I have named it Santa Maria Adelaida, that said tract of land may, in perpetuity, be called Santa Maria Adelaida de las Ormegas. And the said Jacinto Mora being and remaining in entire and peaceable possession of all the aforesaid land, according to law and right, I have, in testimony of which, signed this act of possession, with the aforesaid assisting witnesses, at this place of Santa Maria Adelaida, the day, month, and year before mentioned.

JOSE CAYETANO DE ZEPEDA.

JOSE LOUIS DE LA VEGA,
JULIANO GRANDE.

Don Bernardo Fernandez, lieutenant of cavalry, and lieutenant governor of the village of our Lady of the Pillar of Nacogdoches and its jurisdiction, confirms this title, in form and possession, in the name of his Majesty, (whom may God preserve,) to Jacinto Mora, for himself, his children, his heirs, and others representing his rights in perpetuity; it appearing, that from the foregoing act of possession given by the syndic of this jurisdiction, that said tract of land was vacant, and cannot prejudice his neighbors.

Given in the aforesaid village, the 15th day of December, 1795

BERNARDO FERNANDEZ.

This copy is in conformity to and with the original record in the archives under my care, to which I refer, and from which I, Don Dionisio Valle, lieutenant of cavalry, and military and civil commandant of this village and jurisdiction of Nacogdoches, had it copied, corrected, and compared. It is true and genuine; and at which act were present William Barr, Louis Roliquet, and Vicente del Rio. In testimony of which, I, the aforesaid lieutenant of cavalry, have signed it, with two assisting witnesses, and with whom I proceeded, for want of a public notary, this 27th day of June, 1805. To all of which I give faith.

DIONISIO VALLE.

JOSE PINEDA,
MANUEL BUSTAMENTE,
Assisting witnesses.

Next follows a sale from Jacinto Mora to William Barr and Co., of the land above conceded to him, dated 22d of July, 1805, and passed in due form before the said lieutenant and commandant.

This claim is reported by the late board of commissioners, being No. 49 of the Natchitoches claims. By reference to that report, a great body of further testimony will be found sustaining the claimant's pretensions. We have no hesitation in saying we are of opinion this claim ought to be confirmed, and have, in the abstract, classed it with the "first class" of claims.

The entry from the State Papers, title public lands, vol. 4, page 75. The following tabular statement was offered in *in* evidence, in the case of Yates & McIntyre vs. The United States, was, under an agreement made on the 3d of March, 1846, offered in evidence in this case, and is as follows:

First class.

No.	Name of claimant, nature of title, and by whom issued.	Titles, when issued.	Titles, to whom issued.	Date of transfer, person transferring, and to whom.	Extent.	Quantity.
	Complete grants by lieutenant governor of Nacogdoches:					Acres. hds.
87	Joseph Valentine - -	Aug. 30, 1791 -	Claimant - -	- - - - -	1½ miles sq.	
108	Geo. Schamp & Pelag. Schamp	May 14, 1796 -	John Adley -	Jan. 21, 1821, from grantee to claimant - - -	½ lea. sq. -	5,760.
110	Emanuel Prudhomme - -	Title lost - -	Claimant - -	- - - - -	1 lea. sq.	
113	Legal reps. of Pierre Dolet -	Jan. 14, 1796 -	Claimant's ancestor	- - - - -	2 lea sq.	
143	Heirs and reps. of Ed. Murphy	Oct. 18, 1791 -	Do do -	- - - - -	Special -	2,222.84
180	Sam'l Davenport, heirs and reps. of Ed. Murphy, dec'd, heirs and reps. of Luther Smith, dec'd, and heirs and reps. of W. Barr, dec'd - -	Aug. 4, 1798 -	Edward Murphy -	Nov. 3, 1798 do do	4 lea. sq.	
181	Same - - - -	Dec. 15, 1795 -	Jacinto Mora -	July 22, 1805 do do	6 lea. sq. -	207,360
200	Cezare Laffitt and Louis Laffitt -	Title lost - -	Claimants -	- - - - -	- - -	52,390
204	Widow and heirs of Gasp. Fiolle	Title lost - -	Claimant's ancestor	- - - - -	2 lea. sq.	
224	Heirs of Ed. Murphy, by commandant of Nacogdoches -	Title lost - -	John Quinilty -	Grantee to claimant's ancestor -	4 lea. sq.	

The entry of a certain document, marked No. 1 and 2, which documents were by the clerk marked (i) to be identified from the others, as offered in evidence in the case of Yates & McIntyre vs. The United States, was, under an agreement made on the 3d of March, 1846, offered in evidence in this case, and is as follows:

Document No. 1.

S'or Ten'te Gov'or: Jacinto Mora, vecino de este Pueblo de N'tra S'ra del Pilar de Nacogdoches, con el devido respeto, ante vm., paresco y digo: Que en la parte oriental del Rio Savinas y paraxe llamado las Ormigas, distante unas veinte y cinco leguas de este enunciado pueblo, tengo actualmente un cavallada, y es mi intencion de hacer ahí un rancho formal de ganado, mular, caballar, vacano, lanar de pelo y de zerda, con labores de campo; en cuia virtud, suplico á vm. se sirva consederme, para este efecto, á titulo de propriedad, para mi, mis hijos, y eredores, y otros que representen mi derecho, seis leguas de tierra quadras en el dicho paraxe de las Ormigas, comensando el frente principal que mira al occidente, á extenderse seis leguas de norte á sur sobre la orilla oriental del estado Rio Sabinas, de manera que el paso de este, llamado de los Indios, quede en medio del memorado frente principal. La linea del lado que mira al norte deve principar desde la expresada orilla del enunciado Rio Sabinas, á la extremidad norte de la linea que forma el frente principal, y extendase seis leguas al oriente, formando ambas lineas un angulo recto. La linea del lado que mira al sur comensara á la extremidad sur de la linea que señala el frente principal, y se extendera seis leguas al oriente, formando tambien dichas dos ultimas lineas un angulo recto. La linea del lado oriente comensara desde la extremidad de la linea del lado norte, y correra paralela al mensionado Rio Savinas hasta unirse con la extremidad de la linea del lado sur, de modo que los llanos del estado paraxe de las Ormigas queden comprendidos en el quadro de seis leguas de largo por cada frente que forman las supracitadas quatro lineas. Por tanto, á vm. suplico se sirva consederme las seis referidas leguas de tierra quadradas, que compongan un quadro de seis leguas de largo por cada frente, en el indicado paraxe de las Ormigas, y en la manera que pido, por ser realengas, y no haver ningun vecino en el, aquien pueda perjudicar esta concesion: gracia que espero merecer de la justificasion de vm.

Nacogdoches y Nobiembre catorze de mil cetecientos noventa y cinco.

JACINTO MORA.

NACOGDOCHES, 14 *de Nobiembre de* 1795.

El procurador de este comun, Don José Cayetano de Zepeda, estableceera esta parte en el paraxe que expresa y en los terminos qe. pide, siendo realengo y no perjudicando á ningun vesino, y evacuara á este efecto las diligencias de estilo que extendera á continuacion para la confirmacion en forma de este titulo de propriedad.

BERNARDO FERNANDEZ.

A los dos dias del mes de Disciembre del año de mil centesientos no-

venta y cinco, en cumplimiento del decreto que antesede, yo, Don José Cayetano de Zepeda, sindico procurador del comun del Pueblo de N'tra S'ra del Pilar de Nacogdoches, me é transportado, acompañado de los testigos á mi asistensia, Don José de la Bega y Julian Grande, en el paraxe llamado las Ormigas, cito á unas veinte y cinco leguas del enunciado Pueblo de Nacogdoches, en la orilla oriental del Rio Sabinas, á efecto de establecer en este paraxe de las Ormigas á Jacinto Mora, que se halla precente, y darle la posecion que se me ordena; en cuia virtud, estando en este indicado paraxe de las Ormigas, despues de haver inquirido si havia vecinos colindantes, para citarlos á estar presentes á esta actuasion, y quedar, yo vien sersionado que las mas cercanos distan á unas dies ó dose leguas á lo menos de este mensionado paraxe de las Ormigas, y que ninguno de los linderos de sus posesiones alcansan en mas de tres ó cuatro leguas los linderos que señala Jacinto Mora, en su antecedente escrito, á este paraxe de las Ormigas; por cuia razon, no se les perjudica en modo alguno á los mas sercanos vesinos, poniendo al dicho Jacinto Mora en posesion de la tierra realenga que pide en su memorado escrito, con toda la estension y linderos que en el se espresan, é visitado estos linderos y territorio que encierran, con los indicados testigos de asistencia, y con el supra mensionado Jacinto Mora, y cogiendo á este por la mano derecha, e andado con el una cantidad de pasos de norte á sur, y otra cantidad de pasos del este á oeste, y soltandolo despues de la mano, andubo como quiso en dicho territorio de las Ormigas, arranco yerbas, hizo oyos en la tierra, planto estacas, corto arbolias, cogio pedasos de tierra, los tiro al suelo, é hise otras muchas cosas en señal de la posesion en qe. yo lo he puesto, en nombre de su Magestad, que Dios gu'e, de la d'ha tierra, con los linderos y estencion que a pedido, y en demonstrasion de la propriedad y señorio que ya tiene sobre ella, como unico dueño, que es en virtud de este auto de posesion; y por mallor abundamiento del derecho de propriedad que para siempre tiene adquirido sobre dicha tierra de seis leguas quadradas, en la manera, paraxe, y linderos que expresa su consabido antecedente escrito, con las entradas, salidas, usos, y serbidumbres, que tiene el referido Jacinto Mora, puso á todo el mensionado territorio de las Ormigas, que ensierra el quadro de seis leguas de largo por cada frente, el nombre de Santa Maria Adelaida, para que á perpetuado se llamado este mensionado territorio Santa Maria Adelaida de las Ormigas, y quedando ya el suso d'ho Jacinto Mora en entera y pasifica posesion, conforme á derecho de toda la tierra indicada, para que en todos tiempos conste firmo este auto de posesion, con los mensionados testigos, en este paraxe de Santa Maria Adelaida de las Ormigas, en el mismo dia, mes, y año, que *ut supra*.

Entre renglones—dos—qe.—ve.

JOSE CAYETANO DE ZEPEDA.

Jose Louis de la Bega,
Julian Grande.

Tachado—del Pueblo—no vale.

Don Bernardo Fernandez, teniente de cavalleria y teniente de Gov'r del Pueblo de N'tra S'ra del Pilar de Nacogdoches, confirmese y dese este titulo de posecion en forma, en nombre de S. M., qe. Dios gu'e, á Jacinto Mora, á perpetuidad, para el, sus hijos, erederos, y otros que su derecho representaren, por constar por la posesion que antecede de sindico procurador de este comun, Don José Cayetano de Zepeda, que el paño de tierra que expresa es realenga y no perjudica á sus vecinos.

Dado en el referido Pueblo de Nacogdoches, á los quinse dias del mes de Disiembre del año de mil cetesientos noventa y cinco.

BERNARDO FERNANDEZ.

Enmendado—erederos entre renglones—de—teniente—vale.
Tachado—comandante—no ve.

Concuerda este testimonio con su original que queda en el archivo de mi cargo, á que me remito de donde: Yo, Don Dionisio Valle, teniente de cavalleria y comandante militar y politico del Pueblo de Nacogdoches, lo hize sacar, corregir, y confrontar, va sierto y verdadero, corregido y confrontado, y á lo ver sacar se hallaron presentes como testigos instrumentales los vesinos, Don Guillermo Barr, Don Louis Reliquet, y Bicente de Rio; y para la devida constancia lo firme, yo, el mensionado teniente de cavalleria, con dos testigos de asistensia, con quienes autuo, á falta de escrivano publico, á los veinte y siete dias del mes de Junio de mil ocho sientos cinco. De todo lo que doy fe.

DIONISIO VALLE.

De asistensia, JOSE PINEDA.
De asistensia, MANUEL BUSTAMENTE.

Document No. 2.

En el Pueblo de N'tra S'ra del Pilar de Nacogdoches, á los veinte y dos dias del mes de Julio del año de mil ochosientos cinco, ante mi, Don Dionisio Valle, ten'te de cavalleria y comandante militar y politico del referido pueblo, y en presencia de los tres testigos de mi asistensia, avaxo firmados, con quienes autuo, á falta de escrivano publico, porque no le hai en esta jurisdiction, comparesio S'or Jacinto Mora, de esta vesindad, el cual dixo, que havia vendido y vende realmente á Don Guillermo Barr y Compañia, á saver, un paño de tierra, de qe. es dueño, segun acredita en el documento testimoniado que exive, y es adfunto, en el termino y jurisdiction del citado Pueblo de Nacogdoches, situado veinte y cinco leguas distante de el, en el paraxe nombrado las Ormigas, orilla oriental del Rio de Savinas; cuio paño de tierra es el mismo que le fue consedido por este Govierno, en catorse de Noviembre de mil setecientos noventa y cinco; y para los fines que propuso en su petision de la fecha citada, y en que manifesto las circunstancias de la tierra, sus puntos, distancias, y de mas que la componen, con todas las cuales segun suenan en la consesion y posesion que ha cido dada de d'ha paño de tierra, constante en el mismo referido instrumento de consecion, hase el insinuado Don Guillermo Barr y Compañia la indicada venta, por libre de grabamen, porque no lo tiene, y por presio de docientos

pesos en generos, al presio corriente de este pueblo, y cincuenta en reales, cuia completa cantidad tiene resivida de constado, y á su voluntad, por lo que renuncia la non-numerata pecunia, prueva, y leyes de la entrega y otorga formal, resivo de ella, mediante lo cual se aparta el bendedor de la propiedad, posesion, util, dominio, y señorio, y demas acciones reales y personales que al nominado paño de tierra, segun y como esta consedido a tenido y todo lo cede y transfiere en el comprador, y en qn. su dr'o y causa huviere, para qe. como propio lo posea ó enagene, á su voluntad, por esta escriptura, que le otorga en señal de real entrega, y con lo que es visto haver adquirido la posesion sin otra prueva de que le releva, y se obliga al soneamento de esta venta en bastante forma, ó como mas combenga, con sus vienes havidos, y por haver con clausula guarentigia, contrato, executorio, poderio y sumision de justisias y renunsiasion de leyes de su favor, con la general en forma que lo proive; y estando precente el nominado Don Guillermo Barr, acepto á su fabor, por sí y compañia, esta escriptura, resivio comprado el relasionado paño de tierra en la conformidad que le es bendido, del que se da por entregado, y otorga formal resivo; en cuio testimonio no firmo el vendedor, porque se halla siego, pero rogo al vesino, Dn. José Cayetano de Zepeda, firmara en su nombre, y el comprador lo firmo tambien con los mensionados testigos de asistencia, y con migo, d'ho comd'te, que doy fee conosco los ortogantes.

Tachado—porque—no ve.

DIONISIO VALLE.
Arruego de JACINTO MORA,
Firme yo, JOSE CAYETANO ZEPEDA.
GUILLERMO BARR.

De asistencia, MANUEL BUSTAMENTE.
De asistencia, BERNARDO MARTIN TESPALIER.
De asistencia, JOSE PINEDA.

Tachado—del Pueblo—de—de—no ve.
Entre renglones—dada—y todo vale.

Concuerda este testimonio con su original qe. queda en el archivo de mi cargo, á que me remito de donde: yo, Dn. Dionisio Valle, ten'te de cavalleria y comandante militar y politico del Pueblo de Nacogdoches, lo hise sacar, coriegir, y confrontar, va sierto y verdadero, corregido y confrontado, y á lo ver sacar se hallaran presentes como testigos instrumentales los vecinos, Santiago Lepin, Don Louis Reliquet, y Dn. José Cayetano de Zepeda; para la devida constancia, lo firme, yo, el mensionado teniente de cavalleria, con dos testigos de asistencia con quienes autuo, á falta de escrivano publico, en Nacogdoches, á los 27 dias del mes de Julio, de 1805; de todo lo que doi fe.

(Signed) DIONISIO VALLE.

De asistensia, JOSE PINEDA,
De asistensia, MANUEL BUSTAMENTE.

I, Charles Slocum, judge of the parish of Natchitoches, in the State of Louisiana, and ex officio notary public in and for said parish, do certify:

STATE OF LOUISIANA,
Parish of Natchitoches, ss:

Pierre N. Gagnan, of said parish, being duly sworn, doth depose and say, that he is, to the best of his knowledge, information, and belief, fifty-seven years of age; is a native born citizen of said parish, and has resided therein all his lifetime, except that from the year 1804 to 1813 he resided at Nacogdoches, in Texas; that while so residing at Nacogdoches aforesaid, he became acquainted with Dionisio Valle, who was for a part of said period military and civil commandant of said post, and was such commandant, according to the best of this deponent's recollection and belief, in the year 1805. And this deponent further saith, that he at the same time became acquainted with Manuel Bustamente and Jose Pineda, all of whom resided at Nacogdoches aforesaid during the aforesaid period.

That he, this deponent, had frequent business transactions with them, and often saw them write their names, and thus became familiar with their handwriting and signatures, and that the signatures of said Valle, Bustamente, and Pineda, affixed and subscribed to the ancient decree hereto annexed, from Jacinto Mora to William Barr & Co., are, in the opinion and belief of this deponent, in the proper handwriting of said Valle, Bustamente, and Pineda, respectively, and are their true, proper, and genuine respective signatures.

And this deponent further saith, that said Valle, Bustamente, and Pineda are all now deceased, and have been for many years past, as this deponent has been informed and believes.

(Signed) PIERRE N. GAGNAN.

Sworn to and subscribed, on this 29th day of April, 1845, before me,

(Signed) C. E. GRENEAUX,
Parish judge.

STATE OF LOUISIANA,
Parish of Natchitoches, ss:

Be it remembered, that on this 29th day of April, 1845, personally came before me, Charles E. Greneaux, parish judge of the parish of Natchitoches aforesaid, the aforesaid Pierre N. Gagnan, and subscribed and made oath to the foregoing affidavit; and I being well acquainted with the said Gagnan, and knowing him to be a man of truth and veracity, and giving full credit to the statements contained in his said affidavit, and believing it to be the best proof which can now be obtained of the due execution of said deed, do allow the same to be recorded.

Given under my hand and official seal, at Natchitoches, this 29th
[L. S.] day of April, 1845.

(Signed) C. E. GRENEAUX,
Parish judge.

The testimony of Henry A. Bullard, taken in writing by N R Jennings, U. S. commissioner, as offered in evidence in the case of Yates

and McIntyre vs. the United States, was, under agreement made on the 3d of March, 1846, offered in evidence in this case, and *his* as follows:

United States district court, district of Louisiana.

Clerk's office, May 3, 1845.

HENRY YATES and ARCHIBALD MCINTYRE
vs.
THE UNITED STATES.

On this day, before me, N. R. Jennings, commissioner, appeared the plaintiffs in this suit, represented by their counsel, Baldwin, and the United States, represented by B. Peyton, U. S. district attorney, when the following witness in behalf of the plaintiffs appeared to give his evidence in the above entitled case.

Henry A. Bullard, being duly sworn, deposeth and says, that his age is about fifty-five years, by profession a lawyer, and now judge of the supreme court of Louisiana; he arrived in this State, and passed through in 1813; returned and settled in La. at Natchitoches in the year 1814, and remained there until 1820, as a practitioner of the law. He then removed to Alexandria, and continued in the practice of the law until 1826; was appointed judge of that district, and continued until 1830; he then returned to the practice of the law, and continued until 1834, at which time witness was appointed to his present station. In 1813 he visited Texas, San Antonio, Nacogdoches, and other places through the count[r]y. He was in the Mexican service. Before he arrived at Natchitoches the royalists had evacuated Nacogdoches the year before, and it was in the possession of the republicans up to the year 1812. The Rio Hondo, five miles west of Natchitoches, was considered the eastern boundary line of Texas, and also the eastern boundary of the post of Nacogdoches. He speaks of these matters, before 1812, as matters of history, not from his own personal knowledge; but since that period as matters of his own knowledge. Texas, prior to the year 1812, was under the jurisdiction of Spain, and belonged to the captain generalship of the internal provinces of New Spain; and Texas was one of the internal provinces of New Spain. Being asked if he was acquainted with the Las Ormigas and La Nana tracts, says that he is; that the Ormigas lies on the eastern bank of the Sabine, and the La Nana tract is about half way between the Sabine and Rio Hondo, and both within the admitted bounds of Texas. Prior to the year 1812, during his stay in Texas and his residence in Natchitoches, became somewhat acquainted with the manner of making grants and concessions of land in Texas. During his practice at Natchitoches has often had grants of that description submitted to him in his professional capacity. Those grants were made within that jurisdiction, by the commandant of that jurisdiction, to wit, the post of Nacogdoches. The party who wished a grant presented a petition to the commandant of the post; this was referred by the commandant to the syndico pro-

curador; the procurador put the petitioner into possession, if the land was vacant, and the rights of no parties were interfered with; he made his report to the commandant; on his report that he had put the party in possession with certain formalities which were very precise, resembling the livery of seizin, the commandant made a final decree, confirming the grant in the name of the king. These papers together formed the protocol of the grant, and remained in the archives of the commandancy, from which a copy was taken and given to the grantee as his evidence of title. Witness has never heard it doubted that the commandant of the post had the power to make such grants; that the grants of vacheries were always larger than those granted for the mere purpose of cultivation. Witness has been familiar with these grants for nearly thirty years. Witness himself brought suit once under the Ormigas grant for Davenport, at his request, for him and the other owners, against a person who had trespassed upon it.

These grants were like all the other grants at that post, and in conformity with the usages in force there at the time the grants were made, according to the laws and usages of Spain as exercised at that post. Witness' knowledge does not extend beyond that part with regard to the land laws. These grants have always been considered genuine grants; and witness has always understood that the parties, Davenport and others, claiming under that title, have always been in possession, and kept vacheries there, on the Ormigas particularly.

Witness knew Guadiana intimately, who had been one of the commandants of that post before the revolution; witness also knew Manuel Bustamente, Jose Pineda; they all were residents of Nacogdoches; Bustamente was the parish sexton. He does not know what Pineda's business was. Guadiana was one of the commandants as above stated, as witness understood, and it was generally known that he had occupied that station. These persons are all dead, he believes. Witness knew Bernardo d'Arthon, John Cortes, Gaspard Bodin, Pedro Procella, and Samuel Davenport: all of whom are dead. Witness heard when he was in Nacogdoches, in 1813, that the archives had been taken away the year before, when the Spaniards evacuated that post. The archives were taken to San Antonio, as he understood. Witness has seen a small book, called the reglamento de triendos, containing the regulations and instructions for granting lands to the commandants of the post at the small frontier settlements. These grants, to wit, the La Nana and Ormigas, appear to have been in conformity with the instructions contained in these reglamentos; that the book was a small printed book in the Spanish language; saw it once in Texas, does not recollect where, about thirty years ago. Witness is acquainted with the Spanish language; witness has compared the exemplifications certified to by the register of the land office at Opelousas, with the printed translation annexed to the petition. These exemplifications are marked AA, BB; this translation conveys the sense of the original, and is substantially a good translation; witness refers to that part of the exemplifications which is translated, but a part of each document does not appear to be translated, but the whole of each grant is translated; but that part of

the document containing the Ormigas grant, purporting to be a sale from the grantee, Jacinto Mora, to William Barr & Co., does not appear to be translated.

Cross examination by B. Peyton, esq., U. States district attorney.

Reserving all exceptions to the foregoing testimony, and specially that portion of it which refers to matters of hearsay and mere matters of opinion, and which tends to prove the contents of printing or written documents, laws and regulations, which govern the Spanish authorities, propounds interrogatories, to which the following answers are given.

Witness states that he saw a paper in the hands of Davenport, which he believed to be an original copy of the Ormigas grant; this was about the year 1815 or 1816, and has seen the same paper in the possession of his family frequently since. This exemplification from the land office seemed to be a copy of it; the one of which witness speaks was looked upon as an authentic copy; witness has no personal knowledge of the manner in which this paper found its way into the land office. The name of Bustamente was affixed to the paper of which he speaks as a witness; is acquainted with his signature; does not know the signature of any other party; the signature of Bustamente is genuine. The exemplification marked AA is a copy, as he supposes, of the one which he saw in the hands of Davenport; the copy which he saw in the hands of Davenport and of his family, as before stated, and to which he above refers, as authenticated by the signature of Bustamente, he saw a few days since in this city in the hands of the plaintiff's counsel, and is confident that it is the same document which Mr. Davenport always kept as his muniment of title. Witness can't say whether or not that document was ever placed in the hand of the register of the land office at Opelousas, or, if so, how it got out of his possession; witness has no knowledge of the boundaries of either of these tracts of land as before mentioned. Witness' recollection is very indistinct as to the book, of which he has before spoken, containing the regulations and instructions to commandants with respect to land titles, as he gave very little attention to it, his attention being mainly directed to other matters, and looked into this matter purely from motives of curiosity, but is under the impression that these instructions proceeded from the captain general, who was stationed at Chihuahua, in the province of New Biscay; Mexico, at this time, was divided into two parts, the Vice Royalty and the Captain Generalship of the internal provinces, and the jurisdiction of the Vice Royalty did not extend into the internal provinces; the Vice Royal resided at the city of Mexico. Witness states that in general the regulations for granting lands were precise, but with regard to the instructions contained in the book referred to he cannot speak with certainty, but is satisfied that the authority to the commandant for granting lands was derived from some higher authority, and the laws of Spain, as he supposed.

Witness states, that the laws of the Indies were in force in all Spanish America before the revolution, as he thinks; that the book which he saw in Texas left the impression upon his mind that it was intended

to contain instructions, forms, and regulations, by which commandants of posts would be governed in granting lands, as he stated before. Witness cannot say whether that book is now extant.

Re-examination in chief resumed.

The general character of the land between the Red river and the Sabine, and within which these grants are situate, is very poor.

The further examination was continued until Monday next, the 5th instant.

MONDAY, *May 5th*, 1845.

Examination on part of plaintiff this day resumed.

Henry A. Bullard. Witness states, that the document C C, annexed to the exemplification marked B B, is a correct translation of a part of the document B B not before translated, purporting to be a conveyance from Edward Murphy of the La Nana tract, to William Barr, Samuel Davenport, Wm. Smith, and Edward Murphy; and witness has also translated that part of document A A not before translated, and which purports to be a conveyance of the Ormigas tract by Jacinto Mora to William Barr & Co., and the same is a correct and true translation thereof, marked D D.

Witness being shown the document marked No. 1 and No. 2, recognised it as the same to which he notified in his cross examination as being in the hands of Davenport, and more recently seen by him, in this city, in the hands of the counsel of the plaintiff in this suit. Witness now recognises the signature of Bustamente as genuine. He does not know any other signature attached to the documents. Witness is of opinion that the person who wrote the name of Pineda at the foot of the instrument wrote the whole document, although he does not know the handwriting of Pineda, or the person who wrote the document.

The district attorney here reserves all legal exceptions to the last answer.

Witness recognises the commencement of a certificate, being three lines on the last page of document No. 2, as being the handwriting of Charles Slocomb, judge of the parish of Natchitoches, who has been dead for more than twenty years. Witness knew the judge well, is familiar with his handwriting, and is positive as to this being his own writing.

Interrogatory. Whether, from an inspection of the instrument marked No. 1, No. 2, from its ancient appearance, from the length of time he has been acquainted with it, from his knowledge of the genuineness of the signature of Bustamente, he has any doubt of the authenticity and genuineness of the document itself, as well the conveyance of Jacinto Mora to William Barr & Co., as the original grant?

To which question the district attorney objects as illegal, but consents that the answer thereto be put down, the legality of the testimony to be determined by the court upon hearing.

Witness answers, that from all circumstances detailed in his deposition, particularly his knowledge of the signature of Bustamente, he en-

tertains no doubt of its being a genuine document, and evidence of an original grant. Witness, in translating the documents A A, B B, perceived that Jacinto Mora was described as being blind, from which circumstance he now remembers to have known himself; he has been dead many years.

Witness, thirty years ago, heard of Louis Reliquet and Vincente del Rio, and believes they are dead.

Witness states, that the policy of the Spanish Government was to encourage settlements of their own subjects about the frontier posts, and for this purpose it was necessary that the commandants civil and military of posts should have the power of making grants and concessions of land. Witness states that it was never the usage of the Spanish government to sell the lands, the public domain being always disposed of by gratuitous grants, except, perhaps, the intendant of Louisiana, after 1798, had the power of selling lands. Witness supposes that the authority of these commandants at the frontier posts, to wit, Nacogdoches and other places, to grant lands, was an exception to the law of the Indies, if by the law of the Indies such inhibition did exist. Witness states, that he does not know whether the grants emanating from these commandants were full or complete, or not, without requiring any other ratification. They purported to be issued in the name of the King, but witness does not know whether they required any higher ratification. The general impression was that they did not.

Cross examination.

Witness being asked if he had seen the papers relating to the La Nana grant, answers that he has seen some papers in Spanish relating to the said grant, but did not know the handwriting of any of the names attached to them.

Witness has lately seen a paper, purporting to be a copy of said grant, in the hands of plaintiff's counsel, but had no signature to it which he could recognise as being genuine; it appeared to be a very old paper. The paper referred to purports to be a copy of a grant made by Guadiana, whom witness knew intimately, as before stated, and is acquainted with his handwriting. Witness refers only to one copy, which he saw in the hands of plaintiff's counsel.

The only grants of which witness has a personal knowledge, which were made by the commandants of the post of Nacogdoches east of the Sabine, are the two referred to above in his testimony, except a permission given to the heirs of Marly by Hel Y. Barbo, commandant, to settle at a place called Bermudez, within seventeen miles of the town of Natchitoches, farther east than either of the said grants which now belongs to witness, and confirmed by the United States as a settlement right, not as a grant; did not purport to be a grant, but merely a permission to settle. This permission was given in 1791, and the settlement under it continued for more than twenty years, as appeared from the report of the commissioners. It was recommended by the commissioners, and confirmed by the U. States for 640 acres, as a settlement right. And

the three foregoing cases are all of which the titles have come under witness' knowledge. He has heard of several others, but has no knowledge of them, never having seen the papers.

Witness thinks that it was in the year 1806, when Gen. Wilkinson compelled the Spaniards, under Don Leonand Herrera, to retire to the western bank of the Sabine. They entered then into a convention with him, that the territory between the Sabine and Rio Hondo should remain neutral, but which convention was never ratified by the Government of the United States, to the best of witness' recollection. Things remained in this situation until Louisiana came into the Union, with the Sabine as its western boundary. After General Wilkinson drove off the military force, some of the Spanish citizens remained there and their descendants are there to this day. The Spanish authorities spoken of were the military and not the civil.

Witness states, that as late as 1811 or 1812, a man by the name of De Soto continued to act as a sort of commandant or adviser of the Spanish inhabitants, on the eastern side of the Sabine, within the Neutral territory above spoken of.

Re-examination in chief resumed.

Witness states, that no point in history is better settled than the line between the post of Nacogdoches and that of Natchitoches was the Rio Hondo up to 1806, and this was a conventional line established by the commandants between the two posts, when both belonged to Spain.

Examination resumed, May 6th, 1845.

Before me—

N. R. JENNINGS, *Commissioner*.

HENRY A. BULLARD, *witness*.

Continuation of re-examination in chief.

Witness explains that part of his testimony given yesterday, wherein he says "that the only grants of which he has a personal knowledge, which were made by the commandants of the post of Nacogdoches east of the Sabine, are the two referred to in his testimony above," by stating that he referred entirely to his knowledge of grants [which] were [on] the eastern side of the Sabine, but that he knows of many others of the same character, the same form, emanating from the commandant of the post at Nacogdoches, on the western side of the Sabine.

(Signed) H. A. BULLARD.

Sworn to and subscribed.

The witness having affixed his signature to the above testimony this day, May 6, 1846, before me, the examination was here closed.

(Signed) N. R. JENNINGS, *Comm'r*.

The testimony of Pierre Gagnon, taken in writing, by N. R. Jennings, U. S. commissioner, which testimony, as offered in evidence in the case of Yates & McIntyre vs. the United States, was, under an

agreement made on the 3d March, 1846, offered in this case, and is as follows:

Examination of witnesses on behalf of plaintiffs resumed this day, February 11, 1846.

YATES AND MCINTYRE
vs.
THE UNITED STATES.

Pierre Gagnon, being duly sworn, deposes, that he is a native of the parish of Natchitoches, and still resides there, and by business a planter. States that he resided in Nacogdoches, Texas, from 1804, to 1813; when residing there, he was acquainted with Dionisio Valle, and that he was military and civil commandant of the post of Nacogdoches in 1805. That he has seen him write and sign his name, and that the signature affixed to document No. 1 and 2, filed on the 5th of May, 1845, in this court, is the true and proper signature of said Valle; that he was also well acquainted with Manuel Bustamente and Jose Pineda; that they acted as private secretaries to the different commandants of the post; that he was very well acquainted with their handwriting; has seen them write frequently; and after examining the signatures of said Bustamente and Pineda, attached to document marked No. 1 and 2, above referred to, recognises them to be their true and genuine signatures. Witness has heard that all the above named persons are dead. In the year 1810, Guadiana was the civil and military commandant at the post of Nacogdoches. He had occupied that station some time before the year 1805. In the year 1810, Bustamente and Pineda also resided there. Witness knew Governor Salcedo perfectly well; he was governor of the internal province in 1810, and resided at San Antonio y Beyar. Witness also knew Marcel de Soto very well; he was an alcade, and resided at Bazin Pierre, the east of the Sabine river, fifteen or twenty miles, and in what was termed the Neutral territory; he resided and exercised the office of alcade, subordinate to the commandancy at Nacogdoches, until the year 1812, or about the period of the change of government.

Witness knows Henry Jones of Natchitoches, and is acquainted with his handwriting and signature, and being shown the document filed on the 11th February, 1846, marked FF, recognises the signature thereto to be the true signature of said Jones; that on the 2d day of May, 1833, he expressed on the document he was the sheriff and collector of taxes for the parish of Natchitoches.

(Signed) PIERRE N. GAGNON.

Cross examination by the district attorney.

Memorandum left to the commissioner by the district attorney of the interrogatories to be propounded to the witness, to wit:

In what year did Marcel de Soto reside on the east of the Sabine? In what year, state particularly, did he fill the office of alcade? How does the witness know that De Soto was the alcade? When was the

part of the country in which De Soto lived first called the Neutral territory?

1. Marcel De Soto resided on the east of the Sabine from the year 1804 to the year 1812.

2. States that he filled the office of alcade all the time, from the year 1804 to 1812.

3. He knows that De Soto was the alcade only by general reputation.

4. In the year 1806 the part of the country in which De Soto lived was first called the Neutral territory.

(Signed) PIERRE N. GAGNON.

The witness having signed the above depositions in my presence, the further taking of evidence was closed for this day.

February 11, 1846.

(Signed) N. R. JENNINGS, *Com'r.*

Document marked FF, as offered in evidence in the case of Yates & McIntyre vs. The United States, was, under an agreement made on the 3d March, 1846, offered in evidence in this case, and is as follows:

Succession of Smith, Barr, Murphy, and Davenport—
To the collector of taxes for the parish of Natchitoches, *Dr.*

To State tax, year 1830	$1 26
" Parish " 1830	1 26
" State tax, year 1831	6 00
" Parish " "	3 00
" State tax, year 1832	1 38
" Parish " 1832	1 38
	$14 28

2d May, 1833. Received payment of Yates and McIntyre.

(Signed) HENRY JONES,
Sheriff and collector of taxes in and for the parish of Natchitoches.

The testimony of Benjamin Field, taken in writing by N. R. Jennings, U. S. commissioner, as offered in evidence in the case of Yates and McIntyre, was, under an agreement made on the 3d of March, 1846, offered in evidence in this case, and is as follows:

CLERK'S OFFICE, *May* 13, 1845.

YATES AND MCINTYRE
vs.
THE UNITED STATES.

In this case the counsel for the plaintiff appear for the purpose of taking the deposition of a certain witness in their behalf. The district attorney of the U. States not appearing, no notice having been served upon him to appear at half-past 7 o'clock, P. M., this day.

Benjamin Field, witness for plaintiffs, being duly sworn, states that he is forty-three years of age, that his residence is in Brazana county, Texas; that he is a planter, and has been engaged in merchandise. In 1825 he first went to Texas, and went backwards and forwards till 1837, when he became a citizen of Texas; during his residence in Texas, he has dealt considerably in land claims, both in buying and selling. In 1829 witness went to Nacogdoches with Robert Logan, who both understood and read the Spanish language. Witness went there to hunt up old Spanish grants. The old Spanish archives, it was said, were taken away about the year 1812. They searched in the alcade's office at that place, and understood that as being the only place where papers of that description could be found or kept. They were searching for old grants and surveys lying east of the Sabine, between that and Red river, and they could find none located in that section. There was one book containing surveys of small tracts of land lying west of Nacogdoches about the Trinity, except one tract called the Quirk tract, lying east of Nacogdoches, and west of the Sabine river, about equidistant between Nacogdoches and the river. Witness made a very careful examination—the search was a thorough one; and witness, Logan, the alcade, and Radford Berry were engaged in it for five or six days; many inquiries were made of the old Spanish settlers, who informed them that the old Spanish archives and records of that post were carried to San Antonio about the time of the invasion in the year 1812. Witness went from Nacogdoches to San Antonio in search of the said archives and records; he could find nothing of them at San Antonio; and John Dorr, formerly an alcade in Texas, informed him that the said records were taken off to Mexico, or destroyed at an early period.

Witness returned to San Antonio in the fall of 1842, when another search was made by him and Goley, in all the places where such records were likely to be found. Goley, his christian name John, spoke the French and Spanish, and he was therefore employed by witness to assist him in making the search. Nothing could be found there relating to the land titles at the post of Nacogdoches. Witness understood and believed that the archives and records were carried to the interior of Mexico, if they were not destroyed.

MAY 15, 1845.

The defendants represented by the district attorney appeared this day, and cross examined the witness.

Before commencing his cross examination, the district attorney specially reserves all legal objections and exceptions to the above testimony.

When engaged in the search alluded to in his examination in chief, witness had no reference whatever to the titles or grants in controversy in this suit, to wit, the Las Ormigas and the La Nana tracts. Witness searched in the alcade's office at Nacogdoches, of which Radford Berry had the control. Witness does not know the plaintiffs in this suit. In 1842 witness was in search of a Spanish grant between the Sabine and Red rivers, granted to Benjamin R. Milan in the year 1824, by the

Mexican government, at Santilia, the capitol of three provinces, to wit, Carahuila, Texas. Witness states that he has no interest in any grants between the Sabine and the Rio Hondo, except the one first spoken of. Witness here states that the grants with which he is acquainted were grants from the government of Mexico. Witness refers to the grants made between the Sabine and the Red river. The form of these grants was an order from the Mexican government, in the shape of a certificate, to the commandant or the alcade, to issue an order of survey, which survey was made and returned to the grantee, and the requisitions complied with, the title was confirmed by the government. This was the form as granted to Milan. Witness has seen no other grants, nor examined any other. The Milan grant was returned to [the] Mexican government at Santilia, in the year 1829, 22d of December, and it was confirmed on that day.

The counsel for plaintiffs here objects to the above evidence from the words, "grants from the government of Mexico."

Witness states that in his searches referred to in his principal examination, he saw no grants made by the commandant except the one referred to, and some others referred to in the book, of which he has no recollection.

The Quirk claim witness states was confirmed. Witness being asked if, when about to purchase a grant, he would consider a grant made by the commandant, without being subsequently confirmed by the Mexican government, a sufficient title or grant? Answers, that he would not. Witness' occupation in Texas has been such as to induce him to investigate the titles *and* to grants. Witness states that he understands that the old boundary line never extended beyond the Sabine, or east of the Sabine river, as high as up the old San Antonio road; it is about 55 miles, or something about that, where the San Antonio road crosses from Nacogdoches. In confirmation of the Quirk grant, witness means confirmed by the government of Mexico. The counsel for the plaintiffs here objects to all the evidence, from the objection as stated above to the close of the cross examination, on the ground that the said evidence was not called up by the principal examination, and on the ground of irrelevancy; and that so far as witness speaks of grants or confirmation of title, it is not competent for him to give parol evidence of the same, without the production of the titles themselves.

Examination in chief resumed.

States that the Milan grant is above Shreveport, opposite to Fulton. Mexico, witness was told, commenced her revolution against Spain in the year 1811 or 1812. Does not know how long that revolution continued. Does not know when Spain acknowledged the independence of Mexico. Does not know whether Mexico was in a state of revolt against Spain at the time when the Milan title for the land was confirmed. Before 1829 Mexico had formed her own independent government, and established her own laws, which were prevailing in Texas.

Witness when he speaks of the confirmation of titles, grants issued by

the Mexican authority, refers to the Mexican government. Witness, prior to 1825, knew nothing of the boundaries of Texas, its customs, nor its usages, nor did he know any thing of the boundary between the post of Nacogdoches and Natchitoches.

Witness being asked whether, in speaking of the eastern boundary of Texas, he does not refer to the boundary as established by treaty between Spain and the United States in 1829? Answers, that he does not know when the treaty was made; and when he speaks of the eastern boundary of Texas, he speaks of it as he understood it to exist in the year 1825. When he speaks of the boundary between the post of Nacogdoches and Natchitoches, he speaks of it as existing before 1825; he thinks it has not since been changed. Witness can't give any information, prior to that period, as to the boundary between these two posts.

Cross examination resumed.

Witness knows nothing of his own knowledge, but he has heard a difference has existed between the form of making grants by the Spanish government and Mexico. Witness would not think that a grant from the commandant or alcade would have been good, unless it was sanctioned by the government.

Examination in chief resumed.

When he speaks of the approval of the government being necessary, he speaks of Mexico as existing after 1824; he has no knowledge of any time prior; he has no knowledge of the form of making grants prior to that time, save from what he has heard.

(Signed) B. OSER FIELD.

The witness having subscribed the foregoing deposition in my presence, the examination of witness here closed. May 15, 1845.

(Signed) N. R. JENNINGS, *Comm'r*.

The testimony of Charles S. Taylor, taken in writing by N. R. Jennings, United States commissioner, and offered in evidence in the case of Yates and McIntyre vs. The United States, was, under an agreement made on the 3d of March, 1846, offered in evidence in this case, and is as follows:

Clerk's office, United States district court, district of Louisiana.

YATES and MCINTYRE, }
vs. }
THE UNITED STATES. }

FEBRUARY 6, 1846.

By consent of parties, testimony was taken in the above entitled cause on behalf of plaintiffs, on this the 6th day of February, 1846.

Charles S. Taylor, being duly sworn, states, that he is a lawyer by profession, and resides in Nacogdoches, Texas, having resided there since the early part of the year 1830.

The laws of Mexico remained in force in the country of Texas till the latter part of the year 1835, at which time the Mexican authorities were displaced, and officers appointed by the provisional government of Texas substituted in their places.

Under the Mexican government, witness first held the office of alcade for 12 months, and then the office of commissioner, to give possession and extend titles to settlers on the frontiers of Nacogdoches and the Gulf coast; the office witness held, until the breaking out of the revolution. The government was then changed, under which witness held first the office of chief justice of the county of Nacogdoches. He was then appointed commissioner to run the boundary line between the United States and Texas, and afterwards received the appointment of district atttorney for the 3d judicial district of Texas.

Upon the breaking out of the revolution, and change of government, commissioners were appointed to call upon the different officers having possession of public papers, and demand their surrender; but one of said commissioners ever came to Nacogdoches, and consequently no formal demand was ever made; and upon a change of officers, a greater part of the public archives was not in the custody of any particular individual whatsoever. Such being their state, witness was requested, as said chief justice, by resolution of a public meeting, to take possession of them. And by an act of Congress, subsequently passed on the ninth of December, 1837, witness took all papers that were in his possession relating to grants of land to the seat of government, at Houston, and deposited them in the general land office.

According to a tradition in the country, most of the titles to land in the eastern part of Texas were removed to San Antonio de Bexar. Some time in the year 1834, witness was employed in copying the correspondence of the political chief in his office, who was entitled, in his capacity as chief, to the custody of these papers, and during that time a requisition was made by said political chief of the governor of Coahuila, in Texas, for all land titles belonging to that section of country, to wit, Nacogdoches, which were then in the archives at San Antonio. In conformity with which requisition, witness believed that many titles were sent to Nacogdoches. Witness has seen the letter of the political chief, resident at San Antonio, accompanying the list of titles there sent, and these titles constituted a portion of the papers taken by witness to the city of Houston, under the act aforesaid.

Witness has had much to do with grants in Texas, originating both under the Spanish and Mexican governments. Witness has examined the documents marked A A and D D, and doc. marked B B and C C, already filed. The doc. marked B B and C C, witness states, appears to be a copy of the original, and the doc. marked A A and D D appears to be a copy of a certified copy of the original grants, and that these documents appear to be in the customary and usual form of such grants.

It has always been the understanding of witness, that the military commandants under the crown of Spain had full power and authority to make grants of lands without any restriction or limitation of the

power in reference to quantity, that he knows of. Witness had never heard the authority of said commandants disputed by either the Spanish, Mexican, or the present Texan government.

Cross examination by the D. attorney.

Witness states that his knowledge is confined solely to transactions in Texas in reference to the power of military commandants to make grants.

States that previously to the Texan revolution there were three of the Mexican officers having charge of the public archives. These officers were the political chief, the primary judge, and the alcade. These officers had charge of the papers relating to their several departments. In 1837 witness took charge of all the papers in these several departments. Witness has understood that, under the Spanish government, the commandants of posts exercised civil and military jurisdiction, and had charge of all the public archives.

Examination in chief resumed.

Witness states that before the papers referred to were taken into his possession, they had not been in the custody of any person for some months. Witness cannot state whether the papers were destructed or not. Some of the papers were boxed up, and some of them in a loose condition. Witness states that he remembers that two or three of the grants, similar to those on file, have been confirmed by the Mexican Government.

In Texas, under a law of that republic authorizing and requiring suits against the government in the district court for the county of Nacogdoches, at the last term of such court, a verdict was rendered for the plaintiffs, upon a grant similar to those on file, the foundation of which was laid under the crown of Spain, and the subsequent proceeding were had under the authorities of Mexico. This was an eleven leagues grant. Witness states he is aware of another case in the county of San Augustine, where a recovery was effected under a grant similar to those on file, as witness supposes. These are the only two judicial decisions of which witness has any knowledge concerning grants, &c. The grant in San Augustine, witness thinks, was some four or five leagues in extent.

The case in Nacogdoches, witness states, is now under appeal; and he understood that the intention was to take up, under appeal, also the case in San Augustine, but he does not know whether it has been taken up or not.

Witness states that he was counsel for the plaintiffs in the case referred to in Nacogdoches.

Cross examination resumed.

States that, in the case in Nacogdoches, it was a conditional grant in the nature of a sale. There was a price and condition stipulated, for which reason witness calls it a conditional grant, and one of the condi-

tions was the putting on stock. Witness has never seen the papers in San Augustine, and cannot say whether it was a sale or a grant.

(Signed) CHS. P. TAYLOR.

Sworn to and subscribed before me, this 6th day of February, 1846, and the testimony here closed for this day.

(Signed) N. R. JENNINGS, *Commissioner*.

Depositions of B. Pleasance, A. Prudhomme, G. S. Walmsley, William T. Walmsley, H. Borgar, Michel Colgan, P. Procella, and P. N. Gagnin, taken under a commission, together with a letter from H. T. Williams to G. S. and W. T. Walmsley, and two plans marked B and C, as offered in evidence in the case of Yates & McIntyre vs. the United States, was, under an agreement made on the 3d of March, 1846, offered in evidence in this case, and is as follows:

[For map, see original, page 151.]

The annexed diagram represents the tract of land known by the name of Lanana, reported by the commissioners in favor of William Barr, heirs and representatives of Edward Murphy, deceased, heirs and representatives of Luther Smith, deceased, and heirs and representatives of Samuel Davenport, deceased, under number 180, situated in the parish of Natchitoches, northwestern land district, Louisiana, which we have surveyed, pursuant to an order from the surveyor general of the public lands for the State of Louisiana, and in conformity with said report; also, we have divided it in accordance with the partition made under the direction of the court of probates in and for the parish of Natchitoches.

The boundaries of the townships and sections are represented by dark lines, the subdivisions by red lines, the areas of the sections and fractional parts by red figures, and numbers of sections by dark figures.

April, 1841.

Signed, GEORGE S. WALMSLEY,
WILLIAM WALMSLEY,
U. S. Deputy Surveyors.

A Copy.

We hereby certify, that the foregoing map is a true copy of the original map of survey, made by us, and returned to the office of the surveyor general, pursuant to his order bearing date 22d February, 1841.

Signed, GEORGE S. WALMSLEY,
WILLIAM T. WALMSLEY,
U. S. Deputy Surveyors, La.

[For map, see original, page 151.]

The above diagram represents the tract of land known by the name of Las Ormegas, reported by the commissioners in favor of William Barr, heirs and representatives of Edward Murphy, deceased, heirs and representatives of Luther Smith, deceased, heirs and representatives of

Samuel Davenport, deceased, under number 181, situated on the left bank of the Sabine river, in the parish of Natchitoches, northwestern land district, State of Louisiana, which we have surveyed, pursuant to an order from the surveyor general of the public lands, for the State of Louisiana, dated February 22d, 1841. Also, we have divided it in accordance with the partition made under the direction of the court of probates, in and for the parish of Natchitoches, the 183 , as above represented.

The boundaries of the townships and sections are represented by dark lines, and the subdivisions by red. The sections are numbered with dark figures, and areas with red figures. April, 1841.

Signed, GEORGE S. WALMSLEY,
WILLIAM WALMSLEY,
U. S. Deputy Surveyors.

(A copy.)

Commission.

Court of the United States, for the district of Louisiana.

To the honorable E. C. Greneaux, parish judge of the parish of Natchitoches, or W. R. D. Speight, parish judge of the parish of Sabine, or to any other judge or justice of the peace in authority of the State of Louisiana.

Know ye, that reposing special trust and confidence in your integrity and ability, we hereby authorize and require you, that you call and cause to come before you, George S. Walmsley, William T. Walmsley, Thomas Jones, Phillip Procella, Robert McDonald, et als., and them duly examine on oath, touching and concerning certain matters and things in a cause now depending in the said court, wherein Henry Yates and Archibald McIntyre are plaintiffs, and the United States defendants; and the same examinations, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court without delay, to be read in evidence on the trial of said cause, and send also this writ.

Witness the honorable Theodore H. McCaleb, judge of said court, at the city of New Orleans, this 12th day of April, anno domini 1845, and the 69th year of the independence of the United States of America.

Signed, N. R. JENNINGS, *Clerk*. [SEAL.]

Interrogatories.

Interrogatories to be administered to witnesses to be produced, sworn, and examined, in a certain cause now pending in the district court of the United States for the district of Louisiana, wherein Henry Yates and Archibald McIntyre are plaintiffs, petitioners, and the United States defendants, under a commission issued out of said court, directed to the honorable E. C. Greneaux, parish judge of the parish of Natchitoches, or the honorable W. R. Speight, parish judge of the parish of Sabine, or to any other judge or justice of the peace of the State of Louisiana, commissioners, as well on the part of said plaintiff, petitioners, as of said defendants.

First interrogatory. What is your age, name, occupation, and place of residence?

Second interrogatory. Do you know the parties, plaintiff, petitioners, and defendants, in the title of these interrogatories named, or any or either of them, and which of them, and for how long a time have you known them respectively, or such of them as you do know? Declare the truth fully.

Third interrogatory. Look upon the paper or letter shown to [you] at the time of your examination, and marked "A," and purporting to be a letter of H. T. Williams, surveyor general of the United States for the State of Louisiana, dated at Donaldsonville, 22d Feb'ry, 1841, and addressed to George S. and Wm. T. Walmsley, deputy surveyor. Are you acquainted with the handwriting of said Williams, and is the signature affixed or signed to said letter in the handwriting of said Williams; and was said Williams at the date thereof the surveyor general of the United States for the State of Louisiana? Did you receive said letter, and when; and did you make the surveys of said La Nana and Ormigas tracts, as therein stated, and plat and return the same with field notes of the survey to said surveyor general's office as therein required; and at what time did you make said survey and returns? Look upon the maps produced and shown to you at the time of your examination, and marked "B," and "C," respectively, and purporting to be maps of said La Nana and Ormigas tracts. Do these maps respectively correctly represent your survey of said two tracts, and the division lines thereon the respective interests of the different owners therein, as therein described?

In making said survey, did you find any ancient blazes or marks, showing that said tracts of land had been previously surveyed, and how long before, in your judgment and opinion, had said tracts of land been surveyed, respectively, and in what manner did you make said surveys, respectively?

Fourth interrogatory. As register of the land office at Natchitoches, have you recently examined the records and books of that office, for the purpose of ascertaining whether any money has ever been refunded by the United States to any of the owners or claimants of said two tracts of land, or any of them, for or by reason of the sale or grants of any part thereof of either of them by the United States; and do you know whether any money has ever been refunded as aforesaid on that account?

Fifth interrogatory. Did you find ancient settlements on both of said tracts at the time of making said survey; and upon the Ormigas tract did you find several families by the name of Procella; how long have they been in possession; under whom did they enter and hold possession; how occupy, as vachery or otherwise; and on whose subdivision do they now live, and whose tenants are they?

Sixth interrogatory. How long have you been acquainted with said two grants, and what is and has been the character and reputation of each, in that neighborhood, among the oldest inhabitants and others?

Seventh interrogatory. Did you know Samuel Smith, the brother,

successor, and legal representative of Luther Smith, in one-fourth interest in each of said tracts; and were you employed by him and others to survey said tracts as aforesaid; who were such other persons; by whom were you paid for said survey, and what interest did said Samuel Smith claim at the time, and from whom claimed?

Eighth interrogatory. Is Luther Smith one of the firm of Davenport, Barr, Murphy, and Smith, now deceased, and how long has he been dead; whom did he leave as his heirs at law and legal representatives in said tracts of land, and did he die intestate?

Ninth interrogatory. Are the remaining members of said firm, viz., said Davenport, Barr, and Murphy, all deceased; when did they die respectively, and who were their respective heirs and legal representatives, and at the time of their respective deaths were they understood to be the joint owners of said two tracts of land?

Tenth interrogatory. What was the business of Davenport, Barr, Murphy, and Smith, and where did they, at the time of the existence of said firm, live and transact said business?

Eleventh interrogatory. On what tract of land do you now live; how long have you been in possession of said tract; under whom did you enter; who preceded you as such tenant; how long did your predecessor remain in possession; in what manner did he, and as you, occupy the same as vachery, or otherwise; were the outer lines of said tract distinctly marked by ancient blazes on the trees, or otherwise; what stock have you now on said tract; whence came it, and under whom do you now hold?

Twelfth interrogatory. Were you acquainted with Samuel Davenport, Bernardo Dortolant, Pedro Procla, Jose M. Mora, Jose Flores, Gregoria Mora, Jose Bernardo Guitriez, John Cortez, of the parish of Natchitoches, or either, and which of them; are they, respectively, now living or dead, any, either, or all of them; when did they respectively die; and were they, any, either, or all of them, witnesses before the board of commissioners, sitting upon these claims at Natchitoches, or any other place, to your knowledge, information, or belief?

Thirteenth interrogatory. Who were the military and civil commandants and lieutenant governors at Nacogdoches, in Texas, from 1794 to 1805, inclusive? Was Texas at that period of time a province or department of Spain? Where, at the last aforesaid period, was the eastern boundary of Texas? How far did the jurisdiction of the post of Nacogdoches extend? Had said military and civil commandants authority (as such) to make grants and concessions of land? Were they under any restriction, as to quantity or otherwise? Were grants or concessions for stock ranges or vacheries larger than those for the mere purpose of cultivation? What was the form or mode of making such grants; and was it necessary to their validity that such grants should be ratified and confirmed by some other or higher power or authority than was possessed by said commandants; or were they absolute and perfect in themselves?

Fourteenth interrogatory. Was Texas invaded, and particularly the

post of Nacogdoches, at any time, and when and by whom? Where are now the public records and archives kept by the Spanish Government at that post, (Nacogdoches?) Have they been removed, and if so, when, and under what circumstances, and by whom?

Fifteenth interrogatory. Are you acquainted with the handwriting of Samuel Davenport, Edward Murphy, William Barr, Luther Smith, Jose Maria Guardiana, Jose Cayetano de Sepeda, Juan José Medina, José Domingues, Jose Louis de la Bagar, Pedro Lara, Jacinto Mora, Bernardo Fernandez, Jose Louis de la Vegal, Juliana Grande, Dionisio Valde, Jose Peneda, Manuel Bustamente, or any or either of them; and, if so, which in particular; and do the papers herewith exhibited at the time of this your examination, and marked E, F, G, H, I, J, and K, respectively, contain their, or either, true signatures; and which of them particularly?

Sixteenth interrogatory. Are you acquainted with the Spanish language? Have you compared the English translations, marked L, M, N, O, with the Spanish documents marked P, Q, R, S, herewith exhibited to you at the time of your examination, and all or either of them; and are they true copies or translations, one, all, or either of them, and which in particular?

Seventeenth interrogatory. Have you examined the records and files in your office, and have you found therein any ancient map or maps, or other record evidence, relating to one or both of said tracts, and which in particular; and what is the record evidence thereof so found by you?

Lastly. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, *on* the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

(Signed) H. BALDWIN,
Of counsel for petitioners.

The said defendants, reserving all exception to the right of said plaintiffs to take out a commission to take the testimony of witnesses residing in this State, on the facts set forth in the affidavit herein filed, also reserving all exceptions to the foregoing interrogatories, as leading and asking for parol proof in matters which could only be proved by written instruments, propound the following cross interrogatories to the witnesses named in the affidavit herein filed:

I. Are you interested, either directly or indirectly, in the event of this suit? Are you to gain or lose any thing whichever way this cause may be decided? Are you connected in business, or otherwise, with either of said petitioners, or with the persons from or through whom said petitioners set up their title? State fully all the particulars in relation to each and every matter herein inquired of.

II. If you answer the third interrogatory in the affirmative, state how you know the facts to which you testify. And, if you answer the whole or part of any of the other interrogatories in the affirmative, state how,

when, where, and from [whom] you received the information as to each and every fact, in detail, to which you testify. Was not such information derived from the hearsay of others, and from what persons in particular?

III. If you answer the fifth interrogatory in the affirmative, state what you mean by "ancient settlements," and specify all the particulars in relation to such settlements. How do you know whether such settlements were ancient or modern? When did you first see said settlements, and how many times, and when have you seen said settlements since?

IV. If you answer the sixth interrogatory in the affirmative, state what you mean by "character" and "reputation," therein referred to, and from whom, where, and when, you have heard of such character and reputation. The said defendants specially except to said sixth interrogatory as illegal and inadmissible.

V. If you answer the eleventh interrogatory in the affirmative, state how much, and what part, of the tract on which you live is occupied and cultivated by you; and state the same facts, so far as within your knowledge, as to the persons who it is said in said interrogatory "preceded you as such tenant." At what period of time did you first have any knowledge as to the possession and cultivation of said tract; and to what extent has it been since cultivated and possessed, and by whom; and what have been your means of information on this subject?

VI. If you answer the thirteenth interrogatory in chief in the affirmative, state how you knew the facts therein inquired of? Where did you reside from 1794 to 1805? During that period in what pursuit were you engaged? Were not the powers of said civil commandants and lieutenant governors given in writing, and are they not to be now found, in writing or in print? If yea, annex, if any are within your control, any such written or printed evidences of authority or power. Have you ever known any grants for vacheries, or otherwise, given during said period by said officers? If yea, specify and describe each and every such grant, and all the particulars thereof? How do you know what was the form and mode of making such grants? And how do you know what was necessary to their validity?

VII. Have you, in your possession, or under your control, any other papers or documents relating to said grants than those referred to in the fifteenth and sixteenth interrogatories? Or do you know of any other such papers or documents? If yea, annex them, or copies of them hereto, or state their contents, if you cannot annex them, and state why you do not annex them.

Signed,

J. W. SMITH,
For B. PEYTON,
U. S. attorney for Louisiana.

STATE OF LOUISIANA, *parish of Natchitoches:*

Be it remembered, that on this 16th day of April, in the year of our Lord one thousand eight hundred and forty-five, in pursuance and by

virtue of the annexed commission granted by N. R. Jennings, clerk of the court of the United States for the district of Louisiana, which commission is directed to any judge or justice of the peace of the State of Louisiana, to take the testimony of George S. Walmsley, Wm. T. Walmsley, Thos. Jones, Phillip Procellas, Robert McDonalds, and others, witnesses in a certain suit now pending in the court of the United States for the district of Louisiana, wherein Henry Yates and Archibald McIntyre are plaintiffs, and the United States are defendants: Whereupon I, Francis H. Areaux, a justice of the peace in and for the parish of Natchitoches, State of Louisiana, between the hours of 10 o'clock, A. M., and 4 o'clock, P. M., on the said 16th day of April, A. D. 1845, proceeded to take the testimony of Bertrand Plaisance, a material witness in said cause, who, being first duly sworn to answer such interrogatories as might be propounded to him, answers as follows, to wit:

To the first interrogatory he says, my name is Bertrand Plaisance; the register of my age has been accidentally burnt, and cannot state, therefore, with precision, my age, but think I am about seventy-one years of age; I am by occupation a planter, and reside in the parish of Natchitoches, and in the State of Louisiana, where I was born, and have always resided.

To the second interrogatory. I do not know plaintiffs, petitioners; I only know the defendants, as generally reputed and known.

To the third interrogatory. I do not know anything of the matter therein contained.

To the fourth interrogatory. Does not know any of the matter therein mentioned.

To the fifth interrogatory. Knows nothing of the matter therein contained, except that he is well acquainted with the Lanana tract, and knows it has been occupied for nearly fifty years as a vachery by Edward Murphy, and persons claiming under him; and witness himself, many years ago, and during the lifetime of Murphy, and about forty years ago, drove some cattle out there for the said Murphy, and left them with his vachery keeper.

To the sixth interrogatory. Has known of the said two grants, La Nana and Ormigas, for nearly fifty years; the reputation of both grants has always been good; both have always been considered as valid grants; witness has himself so considered them, and such has been their general reputation.

To the seventh interrogatory. Knows nothing of the matter therein contained.

To the eighth interrogatory. Witness knows Luther Smith, one of the firm of Davenport, Murphy, Barr, and Smith; said Smith has been dead for many years, some thirty years or more, and died without issue.

To the ninth interrogatory. Witness knows that all the members of said firm are all dead, and all have been dead for many years; Murphy died first, and nearly forty years ago; Barr died about the same

time; Smith and Davenport died about twenty years ago; witness cannot now enumerate all the heirs and legal representatives whom they respectively left at the time of their respective deaths; when living they were understood to be the joint owners of the said two tracts of land.

To the tenth interrogatory. The business of Davenport, Barr, Murphy, and Smith was merchandising at Nacogdoches, in Texas; and, when they were at Nacogdoches, they had the exclusive privilege, under the Spanish government, of trading with the Indians; their business was large, and they were very favorably regarded by the government, especially Davenport, who was occasionally temporary commandant, and was always consulted by the officers of government in all matters of moment, and frequently acted as interpreter on the part of the government.

To the eleventh interrogatory. Never lived on the land, and knows nothing of the matter therein contained.

To the twelfth interrogatory. Witness knows Samuel Davenport, Barnado Dortolant, Pedro Procella, Jose M. Mora, Jose Flores, Guigoria Mora, Jose Bernado Guitriez, John Cortez, Dortolant Procella, and one Gaspard Bowdwin, who are now all dead, and have been for a long time, and were witnesses, as witness thinks, in these claims of the La Nana and Ormegas grants; they were all old inhabitants, and witness thinks would have known much about grants of this description; the board of commissioners before whom the said witnesses were sworn, and, as witness thinks, sat at Opelousas; witness himself was sworn and examined there, before said board, in regard to these claims, and thinks that the testimony of the aforesaid Dortolant was taken at the same time; witness is not quite sure that any of them were present before said board except himself and Gaspard Bowdwin, but is under the impression that all of the aforesaid persons were examined by the board of commissioners in regard to claims of this description.

To the thirteenth interrogatory: Witness cannot tell who were all the military and civil commandants and lieutenant governors at said post from 1794 up to 1803, inclusive, but knows that Guadiana was one. Witness knows him well, and has heard of Bernada Fernando, but don't know at what particular time he was commandant. Texas was at that period, and for a long time before and after, a province, or a department of Spain; the Arroy Honda was always considered the eastern boundary of Texas, and also the eastern boundary of the post of Nacogdoches. It was always understood that the civil and military commandants had authority to make grants and concessions of land within their jurisdiction, and were not restricted as to quantity or otherwise, and concessions for vachery were always larger than those granted for the mere purpose of cultivation. The mode of making grants was in the form following: the person wishing a concession presented his petition to the military and public commandants, setting forth his claim and reasons; therefore, the commandant consulted with the attorney general, and if no objections were found, he ordered his officer, who was usually the attorney general, or syndic, to put the party in

possession. This was done with great ceremony by the attorney general, or syndic, who always took with him at least two witnesses. The attorney general then made returns of his doings to the military and civil commandant, who ratified or confirmed the same, and ordered the same to be placed in the public records or archives, and a copy thereof to be made out and delivered to the petitioner, as his evidence of title. Such was, in substance, the mode, as witness has always understood. Witness thinks that grants thus made were absolute and perfect in themselves, and did not require the ratification of any other higher power than was possessed by the commandant.

To the fourteenth interrogatory: The post of Nacogdoches was invaded in the year eighteen hundred and twelve, and possession taken of it by Magee and Guthries; the Spanish force at that place fled it, to San Antonio, in Texas. In 1813 witness went to Nacogdoches, and there saw Judge Bullard for the first time; and witness understood that the Spaniards carried off all the public records and archives at the time they evacuated the place; does not know where they now are, but presumes they were lost, as it was said the Spaniards were dreadfully frightened, and fled with great precipitancy; has never heard of their having been returned to Nacogdoches.

To the fifteenth interrogatory: Witness says that no papers being exhibited to him under this interrogatory, he has no answer to make to it.

To the sixteenth interrogatory: He is acquainted with the Spanish language; but no papers having been exhibited to him under this interrogatory, has no further answer to make.

To the seventeenth interrogatory: Witness answers that he knows nothing of the matter contained in this interrogatory.

To the eighteenth interrogatory: Under this interrogatory witness has nothing further to say, but to reiterate and repeat all which he has already testified to under each and all of the preceding interrogatories.

Crossed interrogatories.

To the first interrogatory: Witness is not interested directly or indirectly in the event of this suit; will neither gain nor lose by it whatever may be the result; he is not connected in business, or otherwise, with the petitioners, or others under whom they claim or derive their title.

To the second crossed interrogatory: Witness has no further answers to make to this interrogatory than he has already given to the third direct interrogatory, except so far as the same may apply to other direct interrogatories, and as to which witness says, that wherever in his direct examination he has testified to facts arising from reputation, understanding, and belief, such reputation, understanding, and belief was general and universal in its character, and was drawn from no particular individual or individuals, but was the reputation, understanding, and belief of the whole community in which he resided at the time to which his testimony refers.

To the third interrogatory: Witness has no further answer to give to

this interrogatory, except as heretofore stated, and which he deems a full answer to the same, except as to the number of times when he has visited said La Nana tracts, and as to which he says he has visited frequently, but how often, or at what particular time, is now not able to state with precision.

To the fourth interrogatory: Witness means by general good character and reputation, that said grants bore such character and reputation throughout the whole community in their vicinity, and have ever been considered genuine and unquestionable.

To the fifth cross interrogatory: Witness has no further answer to make except as hereinbefore stated.

To the sixth cross interrogatory: As to the facts stated by me in answer to the 13th direct interrogatory, and so far forth as I profess to speak of the authority of the commandant at Nacogdoches, of the boundary of Texas, and of the post of Nacogdoches, as to the limitation of the power of the commandant as to making larger concessions for vacheries than for other purposes, &c., my opinion is derived from the universally received sentiments understood by every body in this vicinity at that day, and doubted by none to my knowledge or belief, and not from any specific written documents or authority. Such, at that period, was the practice and custom at the post of Nacogdoches, acquiesced in by all, and denied or doubted by none, to my knowledge, at that time. I frequently visited Nacogdoches; I have repeatedly seen grants of land on the east side of the Sabine, emanating from the commandants of the post at Nacogdoches, similar to that stated in my direct examination; many are now held under such grants, and not a few of them have been confirmed by the United States Government; from all of which I infer that such power did exist by such commandants, and that such grants, or concessions of land are good and valid. My residence, occupation, &c., are as stated in my first direct interrogatory.

To the seventh cross interrogatory: Witness has not in his possession or control any papers relating to the said grants, or to either of them, and has no further answer to make to these cross interrogatories than as already stated in his answers to the seventeenth direct interrogatory.

his
(Signed) BERTRAND + PLAISANCE.
mark,
not knowing *out* [how] to write.

Sworn to and subscribed before me, at the town and parish of Natchitoches, (La.) this 16th day of April, A. D. 1845.

(Signed) F. H. AREAUX,
Justice of the peace in and for the parish of Natchitoches, La.

STATE OF LOUISIANA,
Parish of Natchitoches:

Be it remembered, that on this 17th day of April, in the year of our Lord one thousand eight hundred and forty-five, in pursuance of, and by virtue of the annexed commission, granted by the court of the Uni-

ted States for the district of Louisiana, and signed by N. R. Jennings, clerk of said court, which commission is directed to any judge or justice of the peace of the State of Louisiana, to take the testimony of Geo. L. Walmsley, Wm. T. Walmsley, Thos. Jones, Philip Procella, Robert McDowald, and others, witnesses in a certain suit now pending in the court of the United States for the district of Louisiana, wherein Henry Yates and Archibald McIntyre are plaintiffs, and the United States, defendants; whereupon, I, F. H. Areaux, a justice of the peace, duly commissioned and sworn, and acting in and for the parish of Natchitoches, State of Louisiana, between the hours of 10 o'clock, A. M., and 4 o'clock, P. M., on the said 17th day of April, 1845, proceeded to take the testimony of Antoine Prudhomme, a material witness in the said cause, who, being duly sworn to answer such interrogatories as might be propounded to him, answers as follows, to wit:

To the 1st interrogatory: He says, my name is Antoine Prudhomme. I am seventy-seven years of age. I am a planter. My residence is in the village of Natchitoches, State of Louisiana, where I was born and have always resided.

To the 2d interrogatory: I do not know the plaintiffs, petitioners, nor either of them, and only know the defendants as generally reputed and known.

To the 3d interrogatory: I know nothing of the facts contained in this interrogatory.

To the 4th interrogatory: I know nothing of the facts stated in this interrogatory.

To the 5th interrogatory: I know nothing of the facts contained in this interrogatory, except as hereinafter stated by me in answer to the last interrogatory. I have heard (6 int.) of the La Nana and Ormigas grants for about forty-five or fifty years last past. The La Nanna was made to Edward Murphy, and both as belonging to Davenport, Barr, Murphy, and Smith, they [having] always been in good repute, and always considered as perfect and valid grants.

To the 7th interrogatory: I know nothing of the matter inquired of by this interrogatory.

To the 8th interrogatory: I was acquainted for many years with Luther Smith, one of the firm of Davenport, Barr, Murphy, & Smith, and he has been dead for many years past. Smith was, when I knew him, a single, or unmarried man, and I believe died without issue. Do not know whom he left as heirs at law, and do not know whether he died intestate or not.

To the 9th interrogatory: I was well acquainted with Samuel Davenport, Edward Murphy, William Barr, and Luther Smith. At an early day they did business together as a commercial firm in Nacogdoches, in Texas. They are all dead, and have been for many years past; can't say exactly how long, but quite a number of years. The last died more than twenty years ago, and the others long before. When living, they were the reputed owners of said tracts.

To the 10th interrogatory: The business of Davenport, Barr, and

Murphy, and Smith, was merchandising; their place of business was Nacogdoches, in Texas.

To the 11th interrogatory: I know nothing of the matter inquired of by this interrogatory.

To the 12th interrogatory: I know them all; they are all dead. Can't say when they died, but they have been dead for many years. Don't know as to their having been witnesses before the board of commissioners.

To the 13th interrogatory: I cannot tell who were the military and civil commandants and lieutenants governors at the post of Nacogdoches from the years 1794 up to 1805 inclusive; but recollects that Guardiana was one, and thinks that he was during that period. Was never at Nacogdoches but once, and that was when he was a boy. Texas was a province or department of Spain for a long time before the year 1794, and a long time after the year 1805 the eastern boundary of Texas was always understood to extend to the Arroy Hondo, five miles west of Natchitoches, until the treaty between the United States and Spain, which moved it to the Sabine river; jurisdiction of the post of Nacogdoches extended last to the Arroy Hondo, as there was no other commandancy or post between the Arroy Hondo and the Nacogdoches, and so continued until since the treaty with Spain. It was understood that the military and civil commandants of the different posts had authority as such to grant lands within their respective jurisdictions. Never heard of any restriction upon their authority, as to quantity or otherwise; thinks there was none. Grants or concessions for stock ranges, or vacheries, were always larger, and much larger, than those that were made for the mere purpose of cultivation. Can't say what was the particular form or mode of making such grants, as witness never dealt in them. Witness lived in the province of Louisiana, and obtained his grant from the commandant at New Orleans; but always understood, and believes, there was some difference as to the mode of making them. Those issued at New Orleans were less formal than those issued at Nacogdoches. My grants from the commandancy at New Orleans was in the mere form of requests. In ancient times, when there was but few inhabitants, and most of [the] lands vacant, we got it for nothing; we only had to petition for it and it was given; the only thing we paid was ten dollars for making out the title. Can't say that it was necessary to have titles ratified by any higher power. Always supposed that unconditional grants made by the commandant at Nacogdoches were perfect in themselves.

To the 14th interrogatory. I know that Texas was invaded by a force from here in the year, I think, of eighteen hundred and twelve. Nacogdoches was taken, and the Spaniards, I understood, fled to San Antonio. Don't know whether they took the public records with them or not, and don't know what became of them, or where they now are.

To the 15th interrogatory. I knew Jacinto Mora, and several others of them, but, no papers being exhibited, cannot further answer.

To the 16th interrogatory. I am not acquainted with the Spanish

language, and no papers having been exhibited to me under this interrogatory, have no further answer to make.

To the 17th interrogatory. I know nothing of the matters set out in this interrogatory.

To the 18th interrogatory. I know nothing and can state nothing further, than merely to reiterate what I have before stated under the preceding interrogatories, except that some fifty years ago I was on the Ormegas tract, at the house of Emanuel Procellas, a Spaniard, who was living on it, and keeping a vachery. I always knew Emanuel Procellas as living there, and believe he died there.

Cross interrogatories.

To the 1st interrogatory. I have no interest, direct or indirect, in the event of this suit, and shall not gain or lose anything whatever way the cause may be decided. I am not connected in business, or otherwise, with either of said petitioners, nor with persons from whom they claim or set up their title.

To the 2d interrogatory. I answer this as in my answer to the 3d direct interrogatory.

To the 3d interrogatory. I can make no further answer to this interrogatory than as already given in my answer to the 5th direct interrogatory.

To the 4th interrogatory. The reputation to which I have testified in the 6th direct interrogatory, as relating to those grants, I mean by it a general, public, universal reputation in this vicinity; cannot tell from whom I derived it particularly, as it is, and always has been, a universal sentiment; have no recollection of ever having heard any opinion expressed impeaching or even calling in question the genuineness or validity of either the La Nana or Ormegas grants.

To the 5th interrogatory. I refer to my answer to the 11th direct interrogatory for my answer to this, and can make no further answer.

To the 6th interrogatory. I resided at Natchitoches, as stated in my answer to the first direct interrogatory; so far as I have testified on my direct examination under the 13th interrogatory to reputation, understanding, and belief, &c., I mean by it to refer to the commonly received opinion by the whole community in this region of country, at the time grants by the military and civil commandants were common in those days, and their authority to make them was never doubted or questioned; and in this way a general opinion obtained, and in this way I suppose my own was formed. I have never seen any printed or written power or authority to the commandants or lieutenant governors, and do not know that any existed; I have known several grants as vacheries in this region of country, and they are always large; and when the soil is light, the land poor, and the grass thin, they are much larger than when the soil is rich; as a whole, the entire country between the Red river and Sabine is pine land, poor and light soil; and such I believe to be the character of the lands embraced by both these grants.

To the 7th interrogatory. I have no papers in my possession or con-

trol relating to said grants, or either of them, nor do I know any thing about them.

(Signed,) PRUDHOMME.

Sworn to and subscribed before me, at the town of Natchitoches, on this 17th day of April, A. D. 1845.

(Signed,) F. H. AREAUX.

Justice of the peace for the parish of Natchitoches.

STATE OF LOUISIANA,
Parish of Natchitoches:

Be it remembered, that on this 22d day of April, in the year of our Lord one thousand eight hundred and forty-five, in pursuance of, and by virtue of, the annexed commission granted by the court of the United States for the district of Louisiana, and signed by N. R. Jennings, clerk of said court, which commission is directed to any judge or justice of the peace of the State of Louisiana, to take the testimony of George S. Walmsley, Wm. T. Walmsley, Thomas Jones, Philip Procella, Rob't McDonald, and others, witnesses in a certain suit now pending in the court of the United States for the district of Louisiana, wherein Yates and Archibald McIntyre are plaintiffs, and the United States defendants.

Whereupon I, F. H. Areaux, a justice of the peace, duly commissioned and sworn, and acting in and for the parish of Natchitoches, State of Louisiana, between the hours of 10 o'clock, A. M., and 4 o'clock, P. M., on the said 22d day of April, 1845, and the days following, as will hereafter more fully appear, proceeded to take the testimony of George S. Walmsley, Wm. T. Walmsley, and others, who, being material witnesses in the said suit, and after being duly sworn to answer such interrogatories as might be propounded to them, witness answers as follows, to wit:

To the 1st direct interrogatory he says, my name is George S. Walmsley; I am twenty-seven years of age; am by profession a surveyor, and acquainted with the art, and was at the time a United States deputy surveyor, and have for the last six or seven years been a resident of the parish of Natchitoches, in the State of Louisiana.

To the 2d direct interrogatory. I do not know the plaintiffs, petitioners, nor either of them, personally, and know the defendants as generally reputed and known.

To the 3d direct interrogatory. I am acquainted with the handwriting of H. Williams, late United States surveyor general for the State of Louisiana; the signature signed to said letter is in the proper handwriting of said Williams; it is his signature; and said Williams, at the date of said letter, was the United States surveyor general for the said State of Louisiana; said letter was received by me shortly after the date thereof; and said surveys of the La Nanna and Ormegas tracts of land were made by me and my brother William T. Walmsley, also a United States deputy surveyor, and now register of the northwestern land district of Louisiana, at Natchitoches aforesaid. Said surveys were commenced shortly after the date of said letter, and finished, and returns

made thereof, pursuant to the directions contained in said letter, some time in the month of April, 1841.

The maps annexed to this commission, and marked B and C respectively, correctly represent said surveys, and the division lines thereon represent truly the interest of the different owners in each of said tracts as I understood them. In making said surveys we followed the instructions contained in said letter, and in running the outer lines of the Ormegas tract we found them all distinctly marked by blazes on the forest trees, evidently very ancient, but exactly how old I cannot say; am of the opinion, however, that they were from forty to fifty years old; the old survey was very correct, and making duly allowances for the variations of the needle corresponding with our survey. The outlines of the La Nanna were not as well marked and defined as the Ormegas tract. We however found the centre tree, which bore distinct and very ancient marks, which was shown to us by people in that neighborhood as being the centre of the tract, and which, in its location, corresponded with the centre as described in the original grant; from that tree we took departure.

To the 4th direct interrogatory. I know nothing of the facts contained in this interrogatory, and therefore cannot answer.

To the 5th direct interrogatory. We found on both tracts several old settlements, how old precisely I cannot say, but from the appearance of the fences and buildings it was evident that they had been for a long time settled; on the Ormegas tract we found several persons by the name of Procella; they were on the subdivision belonging to Yates & McIntyre; but when they came, or how long they had been in possession, I cannot state.

To the 6th direct interrogatory. I have heard of the La Nanna and Ormegas grants ever since I first came to the country; these grants have a good reputation, and are generally regarded as good, especially among the old inhabitants.

To the 7th direct interrogatory. I knew Samuel Smith, said to be the brother of Luther Smith, deceased. I was employed by him, (he representing the Barr interest, Henry Yates and Archibal McIntyre, they representing the Luther Smith interest,) Lewis G. De Russy, and others, representing the Davenport interest, and C. E. Grineaux, (who yet owes a balance of fifty dollars on said survey,) and others, representing the Murphy interest, to survey said tracts, each of whom paid one-fourth, except said Samuel Smith, by whom I have not yet been paid, but secured by a deed to a tract of land. As to the 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 interrogatories, witness answers that he knows nothing; and as to the last, he answers, that under this interrogatory he reiterates and repeats all that he has before stated, and can add nothing to the same which I can recollect of at present.

Cross interrogatories.

To the 1st cross interrogatory. I am not interested, either directly or indirectly, in the event of this suit, and shall not gain or lose any thing

whatever may be its result, that I know of. I am not connected in business, or otherwise, with either of said petitioners, nor with the person or persons through whom they derive their title.

To the 2d cross interrogatory. Can make no further answer, as I cannot presume that any further is required.

To the 3d cross interrogatory. I mean that the settlements which we found on the land were evidently very old, but at what exact date they were commenced cannot say. I saw those settlements for the first time, or most of them, when I made the survey; have seen some of them in passing a few times since.

To the fourth cross interrogatory. I cannot state from whom specifically I have heard the opinion expressed; it is the general opinion of the country in this region; my own opinion has been formed in part from that general opinion, but mainly from the report of the register and receiver at Opelousas, when settling upon these and other claims of a similar character, and from their reports thereon; from all of which I have formed the opinion that the titles are good.

To the 5th cross interrogatory. I know nothing of the matters contained in this interrogatory, or the one to which it refers, except as have before stated.

To the 6th cross interrogatory. I know nothing of the matters contained in this interrogatory.

To the 7th cross interrogatory. I know nothing of the matters contained in this interrogatory.

(Signed) GEO. S. WALMSLEY.

Sworn to and subscribed before me, at the town and parish of Natchitoches, this 22d day of April, A. D. 1845.

(Signed) F. H. AREAUX,
Justice of the peace for the parish of Natchitoches.

To the 1st direct interrogatory. My name is William T. Walmsley. I am twenty-five years of age, and by profession a surveyor; am acquainted with the art of surveying; have been United States deputy surveyor; and now register of the land office at Natchitoches, for the northwestern district of Louisiana, and reside at Natchitoches.

To the 2d direct interrogatory. I do not know the plaintiffs, or either of them; and only know the defendants as reputed and generally known.

To the 3d direct interrogatory. I am the brother of George S. Walmsley; assisted in making said survey; have seen his testimony, and agree with him in every particular, as stated in his direct and cross examination; and to which I add under the

4th direct interrogatory. That, as register of the land office at Natchitoches, I have recently examined the records and books in my charge as such register, and find therein no entry or other evidence of any money ever having been refunded by the United States to the claimants, or any other person or persons, on account of any grants or sales made by the United States of any portion or parts of the La Nana or Ormigas tracts of land, or either of them; nor do I know, or believe, that any

money has been refunded on that account, as the books in my charge as register would show the same if such were the facts. 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and last direct interrogatories, and to the cross interrogatories from No. 1 to No. 7 inclusive, I give the same answer as did my brother, George S. Walmsley, already examined in this behalf.

(Signed) WM. T. WALMSLEY.

Sworn to and subscribed before me, at the town of Natchitoches, this 25th day of April, A. D. 1845.

(Signed) F. H. AREAUX,
Justice of the peace for the parish of Natchitoches.

To the 1st direct interrogatory. My name is Henry Borger. I am about sixty-nine years of age. I have been a planter for some years past, but am now out of business. My residence is in Natchitoches, Louisiana; and have resided in the parish of Natchitoches since 1806.

To the 2d direct interrogatory. I am not acquainted with plaintiffs, petitioners, or either of them; and know the defendants as generally reputed and known.

To the 3d direct interrogatory. I know nothing of the matters contained in this interrogatory.

To the 4th direct interrogatory. I know nothing of the matters contained in this interrogatory.

To the 5th direct interrogatory. I know nothing of the matters contained in this interrogatory.

To the 6th direct interrogatory. I have heard of the Lanana and Ormegas grants ever since I have been in the country, and the reputation has been always regarded as good.

To the 7th direct interrogatory. I know nothing of the matters contained in this interrogatory, except that I knew Samuel Smith.

To the 8th direct interrogatory. I am informed, and believe, that Luther Smith is, and for many years past has been, dead; but how long I cannot say. Don't know whom he left as his heirs at law, except Samuel Smith, whom I knew; and who, on one occasion, when in this country attending to his land on those grants, boarded at my house; and who, on his last visit here, died in this village, at the house of Michael Colgan. Don't know whether Luther Smith died intestate or not.

To the 9th direct interrogatory. The remaining members of the firm of Davenport, Barr, Murphy, and Smith are also dead, and have been for a great many years; but how long, or where they respectively died, cannot say; when living, and at their respective deaths, they were the reputed owners of the Lanana and Ormigas grants.

To the 10th direct interrogatory. The main business of Davenport, Barr, Murphy, and Smith was merchandising at Nacogdoches in Texas; they also had some vasheries as early as 1812 or 1813. I was on the Lanana tract, then occupied, and a few years afterwards on the Ormegas, also occupied as a vachery by a Spaniard by the name of Procella,

I now believe under Davenport and others; don't recollect the exact time, but remember that I got several head of cattle of him.

To the 11th direct interrogatory. I know nothing of the matters inquired of by this interrogatory.

To the 12th direct interrogatory. I knew Samuel Davenport and John Cortes, both of whom are now dead, and have been many years; do not know the others; and do not know that any of them were witnesses before the board of commissioners sitting on these and other similar claims.

To the 13th direct interrogatory. Not having any thing to do with claims of this description, I know nothing of them, or any other matters inquired of by this interrogatory, except that Texas was always considered a province or department of Spain, until a few years ago, when the independence of Mexico was acknowledged by Spain. The Arroy Hondo, about five miles west of Natchitoches, was always considered the eastern boundary of Texas and of the jurisdiction of Nacogdoches, until the treaty between Spain and the United States of 1819, which removed it to the Sabine river.

To the 14th direct interrogatory. Texas was invaded, and particularly the post of Nacogdoches, in the year 1812 or 1813, and the Spaniards driven from Nacogdoches; in one of those years, 1812 or 1813, I was there; the place was then in possession of the invaders, or republicans. I know of nothing of the public records, or what became of them, or where they now are.

To the 15th direct interrogatory. No papers being exhibited to me, I have nothing to say in answer to this interrogatory.

To the 16th direct interrogatory. No papers having been exhibited to me under this interrogatory, I have nothing to say in regard to it.

To the 17th direct interrogatory. I know of nothing of the facts inquired of by this interrogatory.

To the 18th direct interrogatory. I can only repeat what I have before said under the preceding interrogatories, and know nothing beyond what I have already stated.

Cross interrogatories.

To the 1st cross interrogatory. I am not interested directly or indirectly in the event of this suit, and shall neither gain nor lose whichever way this may be decided, nor am I in any way concerned in business with any of the petitioners, or others from whom they derive their titles.

To the 2d cross interrogatory. Cannot answer any further or more fully than I have in my answer to the direct interrogatory.

To the 3d cross interrogatory. Cannot answer more fully than I have already done.

To the 4th cross interrogatory. The character and reputation to which I refer was the general character throughout the country; cannot tell from whom in particular it was derived.

To the 5th cross interrogatory. Cannot answer more fully.

To the 6th cross interrogatory. So far as the facts to which I have

testified under the 13th direct interrogatory are based on information, that information was general, universal, not derived from any particular source, but from the whole community. My residence and employment is as already stated.

To the 7th cross interrogatory. I can give no other or further answer than already given in my answer to the 15th and 16th direct interrogatories.

(Signed) HENRY BORGER.

Sworn to and subscribed before me, at the town of Natchitoches, this 26th day of April, A. D. 1845.

(Signed) F. H. AREAUX,
Justice of the peace for the parish of Natchitoches.

To the 1st direct interrogatory. My name is Michael Colgan; am about thirty-five years of age, and engaged in merchandising, and reside in Natchitoches, where I have resided for the last 13 years.

To the 2d direct interrogatory. Don't know the plaintiffs, and only know the United States as generally reputed and known.

To the 3d direct interrogatory. Don't know any thing of the matters inquired by this interrogatory.

To the 4th direct interrogatory. Don't know any thing of the matters inquired of by this interrogatory.

To the 5th direct interrogatory. Don't know any thing of the matters inquired of by this interrogatory.

To the 6th direct interrogatory. I heard of these grants soon after I came to the country, and their character has always been considered good.

To the 7th direct interrogatory. I knew Samuel Smith; he was several times in this country attending to his interest in these claims; the last time he was here, now two years ago, he sickened and died at my house. I know nothing of other matters inquired of by this interrogatory.

To the 8th direct interrogatory. I have been informed, and believe, that Luther Smith is dead; and that his mother, Abigail Smith, his sister, Mary Smith, and his brothers, Nathan and Samuel, succeeded to his estate as heirs at law; have also understood and believe that he died intestate.

To the 9th direct interrogatory. I am also informed and believe that the remaining members of the said firm are also dead; but don't know when they died, or where their heirs or legal representatives [live]; cannot say whether they, at the time of their deaths, were the reputed owners.

To the 10th direct interrogatory. I know nothing of the matters inquired of by this interrogatory.

To the 11th direct interrogatory. I know nothing of the matters inquired of by this interrogatory.

To the 12th direct interrogatory. I know nothing of the matters inquired of by this interrogatory.

To the 13th direct interrogatory. I know nothing of the matters inquired of by this interrogatory.

To the 14th direct interrogatory. I know nothing of the matters inquired of by this interrogatory.

To the 15th direct interrogatory. No papers being exhibited, I have no answer to make to this interrogatory.

To the 16th direct interrogatory. No papers being exhibited, I have no answer to make to this interrogatory.

To the 17th direct interrogatory. I know nothing of the matters contained in this interrogatory.

To the last direct interrogatory. I can only repeat what I have before said under the preceding interrogatories, and have no further answer to make.

Cross interrogatories.

To the 1st cross interrogatory. I am not interested either directly or indirectly in the event of this suit, and shall neither gain nor lose whatever may be the decision, nor am I connected in business or otherwise with either of the petitioners, nor with any person or persons through whom they derive their title.

To the 2d cross interrogatory. Can give no further answer than as already given.

To the 3d cross interrogatory. Can give no further answer than as already given.

To the 4th cross interrogatory. I mean by character and reputation, such as is understood by, and derived from, the whole community. Can't state any particular individual, but generally from every body that I have heard talk about it.

To the 5th cross interrogatory. Can give no further answer than as already given.

To the 6th cross interrogatory. Can give no further answer than as already given.

To the 7th cross interrogatory. Can give no further answer than as already given.

(Signed) M. COLGAN.

Sworn to and subscribed before me, at the town of Natchitoches, this 26th day of April, A. D. 1845.

(Signed) F. H. AREAUX,
Justice of the peace for the parish of Natchitoches.

To the first direct interrogatory. My name is Philip Procell; am the eldest son of Emanuel Procell; I am about thirty-eight years of age; I am a vachery or stock keeper, and reside on the Ormegas tract or grant in the parish of Sabine, formerly the parish of Natchitoches.

To the 2d direct interrogatory. I do not know the plaintiffs, petitioners, nor either of them, and only know the defendants as they are generally reputed and known.

To the 3d direct interrogatory. I know nothing of the matters inquired of by this interrogatory, except as hereinafter stated.

To the 4th direct interrogatory. I know nothing of the matters inquired of by this interrogatory.

To the 5th direct interrogatory. I know nothing of the matters inquired of by this interrogatory, except as hereinafter mentioned.

To the 6th direct interrogatory. I have heard of both of said grants from my earliest recollection; the character and reputation of each has always been good; both have been considered legal and valid grants.

To the 7th direct interrogatory. I know said Samuel Smith, but know nothing further of the matters inquired of by this interrogatory.

To the 8th direct interrogatory. I have heard of Luther Smith and his death, and have understood that he died intestate, and that he left his mother, brothers, and sisters as his heirs at law and legal representatives.

To the 9th direct interrogatory. The remaining members of said firm, viz: Samuel Davenport, Edward Murphy, and William Barr, are all dead, and have been so for many years; but at what time they respectively died I am not able to state, except as to Samuel Davenport, who died, I think, in the year 1825, and was the last survivor of said firm. I cannot enumerate all the heirs and legal representatives of each of them; when living, they were the reputed owners of said land, and I believe died possessed of it.

To the 10th direct interrogatory. I know nothing of the matters inquired of by this interrogatory, except that I have understood that they had a store and transacted business at Nacogdoches, in Texas, and know that they had vasheries on the Lanana and Ormegas tracts.

To the 11th direct interrogatory. I live on the Ormegas tract aforesaid, have been in possession ever since the death of my father, Emanuel Procella, who died on the tract about five years ago. I have however lived on the tract ever since I was a boy. I entered, under the claim of Davenport and others, as vashery keeper in place of my father; my father preceded me as tenant under the claim of Davenport and others. I have understood from my father that he entered in possession of said tract, as vachery keeper for the owners, about forty-five or fifty years ago, but cannot speak from my own recollection further back than about 1812 or 1814. I know that he was then in possession as tenant under the claim of Davenport and others, and so continued to the day of his death. The place has always been, and now is, occupied as a vachery. The outlines of the tract have, from my earliest recollection, been distinctly marked by blazes on the trees. The stock now on the tract consists of cattle, horses, and brood mares; most of the cattle came from the original stock placed there, as I have been informed and believe, about fifty years ago; some portion of them, and all the horses and brood mares, have been put there since, and within the last few years, by Henry Yates and Archibald McIntyre, through their attorney, H. Baldwin. I now hold, and have since the

division of the tract, under said Yates and McIntyre; before that period we held possession of the whole tract.

To the 12th direct interrogatory. I know them all except Dortolan and Guitriez, and know that all those I did know are all dead, except Jose M. Mora, and as to him I can't say.

To the 13th direct interrogatory. I don't know who the military and civil commandants at Nacogdoches were at the period inquired of; Texas was a province or department of Spain until a few years ago, when Spain acknowledged the independence of Mexico; the eastern boundary of Texas, and the eastern boundary of the jurisdiction of the post of Nacogdoches, was always understood to be the Arroy Hondo until since the treaty of 1819 between Spain and the United States, which removed it west to the Sabine. I cannot tell from any personal transactions with the commandants of the post of Nacogdoches whether they had power to make grants or concessions of land, but have always understood that they did possess that power. I know that grants for vacheries were always larger than those made for agricultural purposes, as ploughing, &c.; can't say from any personal knowledge what was the form or mode of making such grants, and do not know whether it was necessary that such grants should be ratified or confirmed by any other or higher authority, but never supposed that it was; always supposed, and now believe, that grants of land, when made by the commandants of that post, if unconditional, were perfect in themselves.

To the 14th direct interrogatory. I cannot speak of the matters inquired of by this interrogatory from personal knowledge, as I was then very young, but have often heard of the invasion of Nacogdoches by the Republican army in 1812 and 1813; that the Spaniards were driven out, and that they carried with them the public archives; this is a part of the history of that day and that affair.

To the 15th direct interrogatory. No papers being exhibited to me, I have no answer to make to this interrogatory.

To the 16th direct interrogatory. I am acquainted with the Spanish language, but no papers being exhibited, I have no further answer to make to this interrogatory.

To the 17th direct interrogatory. I know nothing of the matters inquired of by this interrogatory.

To the last direct interrogatory. I can only repeat what I have before said in answer to the preceding interrogatories, and have nothing further to add.

Cross interrogatories.

To the 1st cross interrogatory. I am not interested directly or indirectly in the event of this suit, nor shall I gain or lose any thing whatever way this cause may be decided. I am not connected in business nor otherwise with either of the petitioners, nor with any person through whom they derive their title.

To the 2nd and 3d interrogatories. Can make no further answer to these interrogatories than I have already given in my direct examination.

To the 4th cross interrogatory. By character and reputation, I mean that general character and reputation which exists throughout the whole community, in the vicinity of those grants, in regard to them; cannot state from whom in particular I derived such information, but from every body that I have heard speak of them, have never heard the genuineness or validity of those two grants questioned or doubted, that I recollect.

To the 5th cross interrogatory. Cannot state how many acres there are under improvement; there are several fields, but don't know the quantity in each. I live on the western part of the tract, about three miles from the Sabine river. I have four brothers, all heads of families but one, and one brother-in-law, also a man of family; also a sister with two children, numbering in all more than thirty persons; they all reside on different parts of the land, and hold under the same title which I do. My father lived on the place now occupied by my brother, Jose Procella, and in his lifetime cultivated more land than I do. I cannot state more fully with regard to the possession of the tract than I have already done in my direct examination. It has always been occupied and possessed as a vachery; a very large head of cattle was kept there by my father, which has been since greatly reduced; the general character of the land is poor, the grass thin, and of course it required a large tract to feed them; the head roamed at large over the whole extent of the grants, and in this way was the tract mainly occupied and possessed. My means of information were such as already stated.

To the 6th cross interrogatory. I refer for answer to my answers already given under the direct interrogatory, and cannot answer more fully.

To the 7th cross interrogatory. Cannot give any other answer than as already given to fifteenth and sixteenth direct interrogatories.

(Signed) PHILIP his ⋈ mark. PROCELLA.
[Not knowing how to write.]

Sworn to and subscribed before me, at the town of Natchitoches, this 26th day of April, A. D. 1845.

Signed, F. H. AREAUX,
Justice of the peace for the parish of Natchitoches.

To the 1st direct interrogatory. My name is Pierre N. Gagnon; I am fifty-seven years of age; am a planter. I am a native of the parish of Natchitoches, in the State of Louisiana, and have always resided here, except from 1804 to 1813, during which period I resided in Natchitoches, in Texas.

To the 2nd direct interrogatory. I am not aquainted with the plaintiffs, or either of them, and only knew the defendants as generally reputed and known.

To the 3d direct interrogatory. I know nothing of the matters inquired of by this interrogatory, except as hereinafter stated.

To the 4th direct interrogatory. I know nothing of the matters inquired of by this interrogatory, except as hereinafter stated.

To the 5th direct interrogatory. I know nothing of the matters inquired of by this interrogatory, except as hereinafter mentioned.

To the 6th direct interrogatory. I have heard of the existence of said two grants since the year 1804, at which time I went to live at Nacogdoches in Texas; the Lanana, as having been granted to Edward Murphy, and the Las Ormegas, as having been granted to Jacinto Mora, by the Spanish commandant at Nacogdoches; the character and reputation of both [of] said grants is, and has been always, considered as good and unquestionable; have never heard to my recollection their validity doubted.

To the 7th direct interrogatory. I know nothing of the matters inquired of by this interrogatory, except as hereinafter stated.

To the 8th direct interrogatory. I was well acquainted with Luther Smith; have been informed and believe that he is dead, and has been for many years past; that he died without issue, and left his mother, Abagal Smith, his sister Mary, and his brothers Nathan and Samuel, of Herkimer county, in the State of New York, his heirs and legal repesentatives, and that he died intestate.

To the 9th direct interrogatory. I was well acquainted with Samuel Davenport, Edward Murphy, and William Barr; have been informed and believe that all of them are dead, and have been for many years past; Davenport died in the year 1824 or 1825, and was the last survivor, the others died many years before, and as I believe between the years 1809 and 1812. I know many of the heirs and legal representatives of the respective parties, but cannot enumerate them all; at the time of their respective deaths, they were the reputed owners of the La Nana and Ormigas tracts.

To the 10th direct interrogatory. The business of Davenport, Barr, Murphy, and Smith was merchandising at Nacogdoches, in Texas, which commenced, I believe, as early as 1798, and continued until some time in the year 1806; they also had extensive vasheries on the La Nana and Ormigas tracts.

To the 11th direct interrogatory. I know nothing of the matters inquired of by this interrogatory, except as hereinafter stated, in answer to the last direct interrogatory.

To the 12th direct interrogatory. I know them all; they are all dead and have been for many years; but at what time in particular they died cannot state; have understood and believe that several of them were witnesses before the board of commissioners, sitting on land claims in this district, many years ago.

To the 13th direct interrogatory. Cannot say who were all the military and civil commandants, between the years 1794 to 1805, as they were frequently changed; I knew some of them personally, and others by reputation. Knew Don Maria Guardiana and Dionisio Valley well; they were among the number; Valles was the last in command, within that period, and thinks Guardiana preceded him; thinks that Bernada

Fernandez was in command of that post some time during that period; Texas was at that time a province or department of Spain. The eastern boundary of Texas, and of the post of Nacogdoches, was always understood to be the Arroy Hondo, about five miles west of Natchitoches, until the treaty between Spain and the United States, in 1819, which fixed it at the river Sabine. So far as my knowledge extends, it was always understood that the military and civil commandants at the post of Nacogdoches had power and authority to make grants and concessions of land, and I never heard that they were under any restrictions as to quantity or otherwise.

Stock ranges or vacheries were always large, dependant upon the amount of stock and the quality of the land; if the soil was poor, more land was given than if it was fertile, as it would require a larger range to keep the stock on poor land than on good. Vashery grants were always larger than those made for the mere purpose of cultivation. The form or mode of making grants was in this way; the person that wanted a concession or grant of land made a petition, in which he set out his wants, his claims, and his reasons; this he signed and presented to the commandant of the post. If the commandant thought favorably of it, he ordered his officer to go with two or more witnesses and examine the land, and if no objections were found, to put the person in possession; the officer did as required, and went back to the commandant and reported to him what he had done. The commandant then endorsed his approval, and either directed the proceedings to be filed with public records, and a copy to be made out for the petitioner as his evidence of title, or directed an entry to be made of the grant in the public records, and the original papers to be handed to the petitioner; the former however, was the usual way; if copies were made out, they were termed copias del original. In most cases that I have seen, such copies were held by the owners of the grant, and these were deemed good evidence of title. I never heard it was necessary to have these grants submitted to any other or higher authority, but always supposed that if the grant was unconditional that it was perfect in itself Some of the grants were conditional, and in such cases they were not perfect until the conditions were fulfilled.

To the 14th direct interrogatory. Texas was invaded, and the Spaniards driven out of Nacogdoches in the year 1812, and another force from the States came on in the year 1813; the invaders were called the republican army. I belonged to it. Cannot say where the public records now are, which were kept by the Spanish commandants at the post of Nacogdoches; it was understood at the time of the invasion that they were carried off by the Spaniards to San Antonio, and I have heard that they were burnt there, at the time we drove them from San Antonio in 1813; we had several battles with them, and always beat them. Can't say where the records are, if they now exist. I went to Nacogdoches in the year 1827, to search for the title to a lot I owned in Texas, but could not find it, nor could I find any public records or

files there of old Spanish grants. I was told that they had never been returned since they were carried off.

To the 15th direct interrogatory. I knew all these parties, and am acquainted with the handwriting of Davenport, Murphy, Guardiana, Zepida, Valley, and several others; but no papers being exhibited to me, have no further answer to make to this interrogatory.

To the 16th direct interrogatory. I am acquainted with the Spanish language, but no papers having been exhibited to me, have no further answer to make to this interrogatory.

To the 17th direct interrogatory. I have no maps or other records, evidence in relation to these grants, and know nothing of the matters inquired of by this interrogatory.

To the 18th and last interrogatory. I know many things in regard to this matter which I have not stated, and prefer telling my own story in my own way: In the year 1804, I went to live at Nacogdoches with Mr. Davenport, who was my brother-in-law; I remained there until 1813, and for most of the time was a clerk in the store of Davenport, Barr, Murphy, and Smith, kept at that place; their store was large, and they did a very extensive and heavy business, and were in great favor with the government, and were regarded as loyal subjects and good citizens, especially Mr. Davenport, who was very often consulted by the commandants, and served as adviser and interpreter between them and other persons in matters of moment; they distributed gifts to the Indians for the government, and frequently furnished supplies to the troops, and paid off their soldiers; at one time they paid over fifty thousand dollars, Spanish mill dollars, which, I am told, to this day has not been refunded to them by the Spanish government.

I was frequently sent out to the Lanana and Ormegas vacheries during my residence at Nacogdoches, both of which the firm of Davenport & Co., or as was usually called William Barr & Co., had large stocks of cattle; in the latter part of the year 1804, they had the Lanana tract surveyed by a surveyor from Nacogdoches, who was usually employed by the commandants at the post of Nacogdoches, by the name of Coleman. I went with the party, and was one of the chain bearers; we started from a cherry tree standing in the prairie, and near the Lanana, and which was marked at the centre of the tract; from that tree we took our departure, and ran around the whole tract according to the terms of the grant, a copy of which the surveyor had with him. We occasionally made blases on the trees, and these marked our lines. We were engaged several days in making the survey, as the streams were high, and in the bottom land the cane was thick. A man by the name of Bengess was living on the land at the time with his family, and was a vashery keeper for William Barr & Co.; he had been living there, as I understood, for several years, and his house and improvements bore the marks of age. They had a large stock on the place; from this period, to 1812, I frequently visited the tract. Burgess remained on it as vashery keeper as late as 1812, and I think after that period; some time in the year 1805 or 1806, and as I believe in the latter year, I first went

to the Ormegas tract; was sent there to see to the cattle by my employers, William Barr & Co.; there was a large stock of cattle on the place marked with their brand, and belonging to them. I often visited there afterwards, and in passing from Natchitoches to Nacogdoches, or either way, always staid at one or the other vasheries over night; once every year, in the spring I was always sent out to see to the collecting and branding of the stock, and thus was very familiar with both places. They purchased their cattle in Texas for goods, and drove them to me or the other vashery according to circumstances, and thus continued purchasing, and the natural increase of the cattle made the stock very large on each. Emanuel Procella kept the Ormegas vashery, and continued to live there, as I am informed, to the day of his death. The vashery on the Lanana was continued many years after 1812, but how long I can't say; but understood that, in consequence of giving out of the cane, the range became poor, and the stock was removed from there to the Ormegas, which has been continued to this day, and has now upon it the descendants of the original stock, as I am informed and believe, and know that they still bear the original mark. I think of nothing further, and can only repeat what I have before said under the preceding interrogatories.

Cross interrogatories.

To the 1st cross interrogatory. I am not interested, directly or indirectly, in the event of this suit, and shall not gain or lose whichever way this cause may be decided. I am not connected in business or otherwise with the petitioners, or other persons through whom they up-[hold] their title, except that I am the brother-in-law of the deceased Davenport.

To the 2d cross interrogatory. Can give no other answer to this interrogatory than I have already given to the third direct interrogatory.

To the 2d cross interrogatory. I can give no further answer to this interrogatory than I have already given to the 5th direct interrogatory.

To the 4th cross interrogatory. I mean by character and reputation such as has always existed, so far as my knowledge extends, in regard to these two tracts in this community, and wherever they are known and spoken of; cannot state from whom I have heard it, but have no recollection of ever having heard any other opinion expressed, but that they were good, valid, and perfect grants.

To the 5th cross interrogatory. Can give no further answer than that already given to the eleventh direct interrogatory.

To the 6th cross interrogatory. Can give no further answer than that already given to the eleventh direct interrogatory.

To the 6th cross interrogatory. I know the facts inquired of in the 13th direct interrogatory from common repute, and from having seen grants from the commandants at the post of Nacogdoches from 1794 to 1804. I lived in the parish of Natchitoches; was engaged in no business in particular; don't know that the power of the military and civil commandants and lieutenant governors was in writing or print; cannot

cite any particular grant made during that period, but knew that the military and civil commandants were in the habit of making grants or concessions of land to any one that made application. Lands in that day were had very cheap, and the Spanish Government was anxious to settle the country, and it would give land to any one that would settle upon it; the Spanish Government at that day never sold its land, but gave them away, generally in such form and quantity as was asked for. I know the form or mode of making grants from the practice of the country at the time, from what I had been told, and from having seen different grants; such grants were generally esteemed valid.

To the 7th cross interrogatory. I have no papers in my possession, and give no other answer than I have already given to the 15th and 16th direct interrogatory.

Signed, PIERRE N. GAGNAN.

Sworn to and subscribed before me, at the town of Natchitoches, this 28th day of April, A. D. 1845.

Signed, F. H. AREAUX,
Justice of the peace for the parish of Natchitoches.

And I, the said justice of the peace, do hereby certify, that I have taken the above depositions of witnesses therein named, and that I have reduced the same to writing in their presence respectively, and have caused each of them to subscribe the same in my presence.

In witness whereof I have hereunto affixed my private seal, having no seal of office, at the town and parish of Natchitoches, on the day and year above written.

Given under my hand, this 28th day of April, A. D. 1845.

Signed, F. H. AREAUX, [L. S.]
Justice of the peace for the parish of Natchitoches.

Copy of document "A," referred to in the 3d interrogatory.

SURVEYOR GENERAL'S OFFICE,
Donaldsonville, 22d February, 1841.

SIR: You are hereby authorized and required to survey, measure, and mark the following claims, to wit:

The claims reported by the register and receiver of the southwestern district, in their report dated November 1st, 1824, under No. 180, in favor of Samuel Davenport, heirs and representatives of Ed. Murphy, deceased, heirs and representatives of Luther Smith, deceased, and heirs and representatives of W. Barr, deceased, claiming by virtue of a grant approved and signed by Don Jose Maria Guadiana, commandant of the post of Natchitoches, on the 4th August, 1798, in favor of Edward Murphy, for four leagues square on the public road from Natchitoches to Gaines' ferry, at a place called La Nana, having for its centre the prairie which joins the bayou of said La Nana, to extend two leagues towards each cardinal point, so as to form a perfect square of four leagues in each front line, the centre to be said prairie; and under No. 181 of same report, in favor of the same claimants, by virtue of a concession

signed by Bernardo Fernandez, lieutenant governor of the jurisdiction of Nacogdoches, dated 15th of December, 1795, in favor of Jacinto Mora, containing six square leagues, equal to 207.360 acres.

You will be careful to take connections to all the lines of the public surveys, so that the said claims may be represented on the township maps, and that the areas of the adjacent tracts may be computed, and return separate plats and certificates of survey, (in duplicate,) and also the original field notes to this office, that such action may be had thereon as may be authorized by law, and the instructions relative to claims reported but not yet finally acted on by Congress.

As this land has already been surveyed for the United States in square sections, you will not be entitled to compensation from this office, it being intended that the expense thereof should be paid by the claimants.

I am, sir, your obedient servant,

Signed, H. WILLIAMS,
Surveyor General, La.

To GEO. S. & W. T. WALMSLEY,
Deputy surveyors.

Memorandum of objections, as noted by the clerk in open court on the trial of the case of Yates & McIntyre versus the United States, and referred to in this case, as by agreement of parties of record in this case.

February 24th, 1846.

Petitioners offered in evidence two exemplifications, marked "A A" and "B B," from the land office at Opelousas.

The counsel for respondents objected to the above documents, on the ground that they are not the best evidence which the nature of the case admits of; that it is secondary evidence; that they are copies of copies, and not legal evidence.

The court receives them, subject to further consideration.

The document marked "A A," above alluded to, is in the words and figures following, to wit:

S'or Ten'te de Gobernador: Jacinto Mora, vecino de este Pueblo de N'ra S'ra del Pilar de Nacogs., con el devido respeto, ante vm., paresco y digo: Que en la parte oriental del Rio Sabinas y paraxe llamado las Ormigas, distante unas veinte y cinco leguas de este enunciado pueblo, tengo actualm'te my caballada, y es mi intencion de hacer ahí un rancho formal de ganado, mulas, cavallar, vacuno, lanar de pelo y de tuda, con labores de campo; en cuya virtud, suplico á vm. se sirva concederme, pa. este efecto, á titulo de propriedad, pa. mi, mis hijos, y erederos, y otros que representen mi derecho, seis leguas de tierra quadras en el dicho paraxe de las Ormigas, comensando el frente principal que mira al occidente, á extenderse seis leguas de norte á sur sobre la orilla oriental del citado Rio Sabinas, de manera que el paraxe este, llamado de los Indios, quede en medio del memorado frente principal. La linea del lado quel mira al norte deve principar desde la expresada orilla del enunciado Rio Sabinas, á la extremidad norte de la linea que forma el frente principal, y extenderse seis leguas al oriente,

formando ambas lineas un angulo recto. La linea del lado qe. mira al sur comensara á extremidad sur de la linea qe. señala el frente principal, y se extendera seis leguas al oriente, formando tambien dichas dos ultimas lineas un angulo recto. La linea del lado oriente comensara desde la extremidad de la linea del lado norte, y cerrera paralel al mencionado Rio Sabinas hasta unirse con la extremidad de la linea del lado sur, de modo que los llanos del citado paraxe de las Ormigas queden comprendidos en el quadro de seis leguas de largo pr. cada frente que forman las supfecitadas quatro lineas. Por tanto, á vm. suplico se sirva consederme las seis referidas leguas de tierras quadradas, que compongan un quadro de seis leguas de largo por cada frente en el indicado paraxe de las Ormigas, y en la manera qe. pido, pr. ser realengas, y no haver ningun vecino en el aquien pueda perjudicar esta concesion: gracia qe. espero merecer de la justificacion de vm.

Nacogs. y Noviembre catorse de mil setecientos noventa y sinco.

JACINTO MORA.

NACOGDOCHES, 14 *de Noviembre de* 1795.

El procurador de este comun, Don José Cayetano de Zepeda establecera esta parte en el paraxe que expresa y en los terminos que pida, siendo realengo, y no perjudicando á ningun vecino; y evacuara á este efecto las diligencias de usito, que extendera á continuacion pa. la confirmacion en forma de este titulo de propriedad.

BERNARDO FERNANDEZ.

A los dos dias del mes [de] Diciembre del año de mil setecientos no venta y cinco, en complimiento del decreto que antecede, yo, Don José Cayettano de Zepeda, sindico procurador del comun del Pueblo de N'ra S'ra del Pilar de Nacogs., me he transportado, accompañado de los testigos de mi ass'a, Dn. José de la Bega y Julian Grande, en el paraxe llamado las Ormigas, cito á unas veinte y sinco leguas del enunciado Pueblo de Nacogs., en la orilla oriental del Rio Sabinas, á efecto de establecer en este paraxe de las Ormigas, á Jacinto Mora, que se halla presente, y darle la possession, que se me ordena; en cuia virtud, estando en este indicado paraxe de las Ormigas, despues de haver inquerido si havia vecinos colindantes, pa. citarlos á estar presentes á esta actuacion y quedar, yo vien serciorado que las mas cercanos distan á unas dies ó doce leguas á lo menos de este mencionado paraxe de las Ormigas, y que ninguno de los linderos de sus possesiones, alcansan en mas de tres ó cuatro leguas los linderos que señale Jacinto Mora, en su antecedente escrito á este paraxe de las Ormigas; por cuia razon, no se les perjudica en modo alguno á los mas cercanos vecinos, poniendo al dicho Jacinto Mora en possesion de la tierra realenga, qe. pide en su memorado escrito, con toda la estencion y linderos qe. en el se expresan, é visitado estos linderos y territorio qe. encierran, con los indicados testigos de ass'a, y con el supra mencionado Jacinto Mora, y cogiendo á este por la mano derecha, é andado con el una cantidad de pasos del este á oeste, y soltandolo despues de la mano, anduvo como quiso en dicho territorio de las Ormigas, arranco yerbas, hiso oyos en la tierra, planto estacas, corto arbolitos, cogio pedasos de tierra, los tiro al suelo,

é hizo otras muchas cosas en señal de la possession, en qe. yo lo he puesto, en nombre de su Majestad, que Dios gu'e, de la d'ha tierra, con los linderos y estimacion qe. ha pedido; y en demonstracion de la propriedad y señorio que ya tiene sobre ella como unico dueño, qe. es en virtud de este auto de posession, y pa mayor abundam'to del derecho de propriedad y señorio que ya tiene sobre ella, como unico dueno qe. es en virtud de este auto de posession, y pa. mayor abundam'to del derecho de propriedad qe. pa. siempre tiene adquirido sobre d'ha tierra de seis leleguas quadradas, en la manera; paraxe, y linderos, qe. tiene el referido Jacinto Mora, puso á todo el mencionado territorio de las Ormigas, qe. ensierra el quadro de seis leguas de largo por cada frente, el nombre de Santa Ma. Adelaida, pa. qe. á perpetuidad sea llamado este mencionado territorio Santa Maria Adelaida de las Ormigas, y quedando ya el suso d'ho Jacinto Mora [en] entera y puripia posession, conforme á derecho de toda la tierra indicada, pa. qe. en todos tiempos conste firmo este auto de possesion, con los testigos, en este paraxe de Santa Ma. Adelaida de las Ormigas, en el mismo dia, mes, y año, qe. *ut supra*.

Entre renglones—dos—que—ve.

JOSE CAYETANO DE ZEPEDA.

Jose Luiz de la Bega,
Julian Grande.

Tachado—del Pueblo—no vale.

Don Bernado Fernandez, ten'te de cavalleria y ten'te de Govern'or del Pueblo de N'ra S'ra del Pilar de Nacogs., confirmese y dese titulo de posession en forma, en nombre de S. M., qe. Dios gu'e, á Jacinto Mora á perpetuidad, pa. el, sus hijos, erederos, y otros que su derecho representaren, por constar por la possession qe. antesede del sindico procurador de este comun, Dn. José Cayetano Zepeda, qe. el paño de tierra que exprese es realengo, y no perjudicio á sus vecinos.

Dado en el referido Pueblo de Nacog'es, á los quinze dias del mes de Diciembre del año de mil setecientos noventa y cinco.

BERNARDO FERNANDEZ.

Enmendado—eredores—entre renglones—de—teniente—vale.
Tachado—com'te—no ve.

Concuerda este testimonio con su original que queda en el archivo de mi cargo, á que me remito de donde: Yo, Don Dionisio Valle, teniente de cavalleria y com'te militar y politico del Pueblo de Nacogs., lo hize sacar, corregir, y confrontar, va cierto y verdadero, corrigido y confrontado, y á lo ver sacar se hallaron presentes como testigos instrumentales los vecinos, Dn. Guillermo Barr, Dn. Louis Reliquet, y Vicente del Rio; y pa. la devida constancia lo firme, yo, el mencionado ten'te de cavalleria, con dos testigos de asistencia, con quienes autuo, á falta de escrivano publico, á los veinte y siete dias del mes de Junio de mil ocho cientos cinco. De todo lo que doy fe.

De ass'a, Jose Pineda. DIONISIO VALLE.
De ass'a, Manuel Bustamente.

En el Pueblo de N'ra S'ra del Pilar de Nacogs., á los veinte y dos dias del mes de Julio del año mil ochocientos, vinio ante mi, Dn. Dio-

nisio Valle, ten'te de cavalleria y com'te militar y politico del referido pueblo, y en presencia de los tres testigos de mi ass'a, avaxo firmados, con quienes autuo, a falta de escribano publico, porque no lo hai en esta jurisdicion, comparecio Sr. Jacinto Mora, de esta vecindad, el cual dixo, que havia vendido y vende realmente á Dn. Guillermo Barr y Comp'a, á saver, un paño de tierra, de que es dueño, segun deredita en el documento testimoniado qe. exibe, y es adfunto, en el termino y jurisdicion del citado Pueblo de Nacog'es, cituado veinte [y] cinco leguas distante de el, en el paraxe nombrado las Ormigas, orilla oriental de Rio Sabinas; cuio paño de tierra es el mismo que le fue consedido por este Gov'no, en catorse de Noviembre de mil setecientos noventa y cinco; y para los fines que propuso en su petition de la d'ha citada, y en que manifesta las circunstancias de la tierra, sus puntos, distancias, y demas que la componen, con todos las cuales, segun suenar en la concesion y posecion qe. le ha cido dada de d'ho paño de tierra, constante en el mismo referido instrumento de concesion, hace al intimado Dn. Guillermo Barr y Comp'a la indicada venta, por libre de grabamen pr. qe. no lo tiene, y por precio de doscientos p'os en generos, al precio corriente de este pueblo, y cincuenta en reales, cuia completa cantidad tiene recivido de contado, y á su voluntad, pr. lo que renuncia la nonnumerata pecunia, pruevas, y leyes de la entrega y otorga formal recivo de ella; mediante lo cual se aparta el bendedor de la propriedad, posecion, util, dominio, y señorios, y demas acciones reales y personales, qe. el nominado paño de tierra, segun y como esta consedido a tenido, y todo lo cede y transfierre en el comprador, y en qn. su d'ho y causa huviere, pa. qe. como propia lo posea ó enagene á su voluntad por esta escriptura, qe. le otorga en señal de real entrega, y con lo que es visto haver adquirido la posecion sin otra prueva de qe. le releva, y se obliga al saneam'to de esta venta, en bastante forma ó como mas combenga, con sus vienes havidos, y por *por* haber con el clausula guarantigia, contrato, executorio, poderio, servicion de justicia, y renunciacion de leyes de su favor, con la general en forma que lo proibe; y estando presente el nominado Dn. Guillermo Barr, acepto á su favor, pr. cigo y comp'a, esta escriptura, recivio comprado el relacionado paño de tierra, en la conformidad qe. le es bendido, del qe. se da pr. entregado y otorga formal recivo; en cuyo testimonio no firmo el vendedor, porque se halla siego, pero rogo al vecino Don José Cayetano de Zepeda sirvara en su nombre, y el comprador lo firme tamb'n, con los mencionados testigos de ass'a, y con migo, d'ho com'te, que doy fee conosco los otorgantes.

Tachado—pr. qe. no ve.

DIONISIO VALLE.

Arriego de JACINTO MORA,

Firme yo, JOSE CALLETANO DE ZEPEDA.

GUILLERMO BARR.

De ass'a, MANUEL BUSTAMENTE,

De ass'a, BERNARDO MARTIN DESPALLIER,

De ass'a, JOSE PINEDA.

Tachado—del Pueblo—de—de no ve.

Entre renglones—dada y todo—vale.

Concuerda este testimonio con su original que queda en el archivo de mi cargo, á qe. me remito de donde, yo, Don Dionisio Valle, ten'te de cavalleria y comandante militar y politico del Pueblo de Nacogs., lo hize sacar, corregir, y confrontar, va cierto y verdadero, corregido y confrontado, y á lo ver sacar se hallaron presentes, como testigos instrumentales, los vecinos Santiago Lepin, Don Luis Reliquet, y Don José Cayetano de Zepeda; y para la devida constancia lo firme, yo, el mencionado ten'te de cavalleria, con dos testigos de ass'a, con quienes autuo, á falta de escrivano publico, en Nacogs., á los 27 dias del mes de Julio de 1805. De todo lo que doy fe.

DIONISIO VALLE.

De ass'a, JOSE PINEDA,
De ass'a, MANUEL BUSTAMENTE.

Entre reglones—de ass'a, Manuel Bustam'te.

LAND OFFICE AT OPELOUSAS, LA.,
March 19th, 1845.

I, the undersigned, register of the land office for the southwestern district for the State of Louisiana, at Opelousas, and in charge of the archives of said office, do hereby certify the foregoing to be a full, correct, and faithful transcript of the Spanish documents on file and belonging to said office, and relating to the claim of Davenport, Barr, Smith, and Murphy, to the Las Ormigas tract, numbered 181 in the report of the register and receiver of 1st November, 1824.

In faith whereof I have hereunto set my hand and private seal of office, on the day above written.

(Signed) P. HEBRARD,
Register.

Document marked "D D," filed with the foregoing document "A A," and being a translation of a portion of said document "A A," beginning at the 17th line on page 207, and ending at the last line, page 214, of this transcript.

D D.—*Translation*.

In the town of our Lady of the Pillar of Nacogdoches, this 22d day of the month of July, 1805, before me, Don Dionisio Valle, lieutenant of cavalry and military and civil commandant of the said town, and in presence of the three witnesses assisting me and undersigned, with whom I act, in default of a notary public, there being none in this jurisdiction, appeared Mr. Jacinto Mora, of this neighborhood, who declared that he had sold, and does sell really, to Don William Barr and company, a tract of land of which he is owner, as shown in the document, duly authenticated, which he exhibits and is annexed, within the boundary and jurisdiction of said town of Nacogdoches, situated twenty-five leagues distant from it, in this place called Las Ormigas, on the eastern bank of the river Sabine, which tract of land is the same which was granted to him by this Government on the 14th of November, 1795, and for the purposes set forth in this petition, and in which he

sets forth the circumstances of the land, its boundaries, distances, and other things relating to the same; all which appeared by the said concession and the possession, as appears by said instrument. He makes to the said Don William Barr and company the said sale, free from all incumbrances, and for the price of two hundred dollars, in goods, at the current price in this town, and fifty in specie, which entire sum he has received in hand and to his satisfaction, for which he renounces the exception of the *non numerata pecunia* and laws relative to the delivery, and gives a formal acquittance for the same. In consideration whereof, the vendor desists from the property, possession, enjoyment, and dominion, and other real and personal actions to and in the said land, according as it is conceded, and all which he cedes and transfers to the purchasers, that they may enjoy it as their property, possess or alienate the same at their discretion, by this writing, which I execute in sign of real delivery, and with which they acquired the possession without other proof, and binds himself to make good this sale in sufficient form or as may be most proper, with his property present and future, with clause of warranty; and the said Don William Barr being present, accepted, for himself and company, this instrument of sale of said tract of land, in the terms in which it is sold and delivered, of which he finds a formal acknowledgment. In testimony whereof the vendor did not sign, because he is blind, but asked the citizen Don Jose Cayetano de Zepeda to sign for him, and the purchaser also signed, with the aforesaid witnesses and the commandant, who certify that I know the parties.

DIONISIO VALLE.

At the request of Jacinto Mora I sign.

JOSE CAYETANO DE ZEPEDA.

GUILLERMO BARR.

Witness, MANUEL BUSTAMENTE.
Witness, BERNARD MARTIN DESPALLIER.
Witness, JOSE PINEDA.

The translation of the other portion of said document "A A" appears in the petition, from the line on page to the line on page of this transcript.

The document marked "B B," above mentioned, is in the words and figures following, to wit:

Señor Ten'te Gobernador: Don Eduardo Murphy, de la vecindario de Natchitoches, ante vm., paresco y digo: Qe. hay el tiempo de tres años que va á quatro tengo, en este jurisdiction de Nacogdoches, del cargo de vm., con conocimiento de los señores comandantes, sus antecesores, establecido un rancho en el parage conocido por la laguna de Juan Mora, y en el conservado ganado, mayor, y otros animales, de los quales hasta el dia de hoy tengo pagado el d'ro de dicemas, segun es costumbre en este provincia, y hallandose dicho paraxe escaso de cavisales suficientes, para laconservation y aumentos de dichos animales, ocuro á vm., pidiendo se me concede, á titulo de propriedad, un paño de tierra en el paraxe llamado La Nana, que se hallo sito en la parte

oriental del Rio Sabinas, como unas siete leguas de sus margenes, y en el camino real qe. va de este pueblo al puesto de Natchitoches; dicho paño de tierra, desde el centro de el, que es el llano qe. junta al arroyo de la citada Nana, se encuentra en el referido camino real, largo de dos leguas por cada viento principal, de manera que forme un quadro perfecto, cuyos frentes tenga cada uno quatro leguas de largo, y sea centro de dicho quadro el enunciado llano, para en este espacio de tierra poder y tener suficientes agostaderos para mis actuales ganados, y las que fuere criando; en cuya virtud, y en la de ser realenga la tierra qe. solicito, y no haver ningun vecino sercano al indicado paraxe qe. yo encomode, pues el mas proximo es el nombrado Charbono, qe. se halla mas ocho leguas distante, y en la parte occidental de nombrado Rio Sabinas. A vmd. suplico se sirva concederme esta gracia, que espero merecer de la justificacion de vm.

Nacogdoches y Febrero veinte y dos de mil setecientos noventa y ocho. ED. MURPHY.

Pase esta instancia al procurador, para qe. dixe en possecion á este parte en el paraxe qe. señala.

Nacogdoches, 1o de Julio de 1798.

GUADIANA.

En primero de Agosto del año de mil setecientos noventa y ocho, en cumplimiento del decreto qe. antecede, yo, Dn. José Calletano de Zepeda, sindico procurador del comun del Pueblo de N'ra Señora del Pilar de Nacogdoches, me transportado, accompañado de los testigos de mi assistancia, Juan José Medina y José Domingues, en el paraxe llamada la Nana, á efecto de establecer en este paraxe de la Nana, á Dn. Eduardo Murphy, qe. se halla presente, y darle la posecion qe. se me ordena; en cuya virtud, estando en este paraxe indicado, despues de haver inquirido si havia vecinos colindantes, para citarlos á estar presentes á esta aucasion y quedar, yo bien cercionado de qe. el mas cercano qe. es Monsieur Charbono, dista unas ocho leguas á lo menos del mencionado paraxe de la Nana, y no hallando impedimento, poniendo al dicho Eduardo Murphy en posecion de la tierra realenga que pide en su memorado escrito, con toda la estencion y linderos que en el se expresan, he visitado estos linderos y territorio, con los indicados testigos de assistencia, y con el supra menci'ado Dn. Eduardo Murphy, estendiendo los dos leguas por el camino real de San Antonio de Bexar al viento del poniente, qe. alcansan hasta las chupapaderas, y otras, y otras dos leguas de tierra para el viento del oriente, qe. alcansan por dicho camino rl. al Arroyo del Japon, y dos leguas para el viento del norte, y dos leguas para el viento del sur, y tomandole por la mano derecha, he handado con el una cantidad de pasos de norte á sur, y otra cantidad de pasos de oriente á poniente, y soltandole despues de la mano, anduvo como qe. como que hizo en dicho territorio de la Nana, y quedando ya el susodicho Dn. Eduardo Murphy en entera y pasifica posession, confirme á derecho de toda la tierra indicada, pa. en todos tiempos con-

ste firmo este acto de posecion, con los mencionados testigos, en este paraxe de San Pedro del Arroyo de la Nana, en el mismo dia, mes. y año. JOSE CAYETANO DE ZEPEDA.

Ass'a, JUAN JOSE MEDINA.
Ass'a, JOSE DOMINGUEZ:

En el puesto de Nacogdoches, á los quatro dias del mes de Agosto del corriente año de mil setecientos noventa y ocho, yo, Dn. José Ma. Guadiana, alferez segundo de la comp'a de Moncloba y comandante militar y politico de dicho puesto, dixe qe. en virtud de haverse dado la antecedente posesion de tierra á Dn. Eduardo Murphy, sin contradiccion alguna, se archive este documento original en el protocolo de este nominado puesto, para la devida constancia, y se de á la parte interesada testimonio, pa. qe. la sirva de titulo de propriedad, y para que conste lo sente par diligencia, qe. firme, con dos testigos de assistencia, con quienes actuo, á falta de escrivano publico, y en el presente papel comun, por falta del sellado qe. corresponde. De lo qe. doy fee.

JOSE MA. GUADIANA.

De ass'a—
JOSE LUIS DE LA BEGA,
PEDRO LARRA.

En el pueblo de Nacogdoches, á las tres dias del mes de Noviembre del año de mil setecientos noventa y ocho, ante mi, Dn. José Ma. Guadiana, alferez de caballeria y comandante militar y politico en d'ho pueblo, comparecio Dn. Eduardo Murphy, y declaro haber cedido y cede todo el titulo de propriedad qe. en la tierra y rancho de San Pedro de la Nana, qe. refiere en el antecedente documento, á fabor de la comp'a de comercio qe. existe entre el dicho Murphy, Dn. Guillermo Barr, Dn. Samuel Davenport, y Mr. Smith, expresando el mencionado Dn. Edward Murphy, qe. pa. el, sus hijos, herederos, y successores, renuncia pa. siempre todo derecho sobre dicha tierra y rancho, y lo cede y transpase en la mencionada comp'a, y pa. la devida constancia lo firme, con migo dicho juez, y dos testigos de assistencia, con quienes actuo, á falta de escrivano publico, y en el presente papel comun, por falta de la sellado qe. corresponde. De todo lo que doy fee.

JOSE MA. GUADIANA.

De ass'a—
JOSE LUIS DE LA BEGA,
PEDRO LARRA.

Concuerda este testimonio con su original que quede en el archivo de mi cargo, á que me remito de donde: á pedimento de parte, yo, Dn. José Ma. Guadiana, alferez de caballeria y com'te civil y militar de este Pueblo de Nacogs., lo hize sacar, corregir, y confrontar, va cierto y verdadero, y á lo ver sacar se hallaron presentes los testigos de mi assistencia, Don José de la Bega y Pedro de Larra Pasos, á los quatro dias del mes de Noviembre del año mil setecientos noventa y ocho. De lo que doy fee. JOSE MA. GUADIANA.

De ass'a, JOSE LUIS DE LA BEGA,
De ass'a, PEDRO LARRA POSAS.

LAND OFFICE, OPELOUSAS, LOUISIANA,
March 19*th*, 1845.

I, the undersigned, register of *register of* the land office for the southwestern district of the State of Louisiana, at Opelousas, and in charge of the archives of said office, do hereby certify, that the foregoing nine pages contain a true, correct, and faithful transcript of the Spanish documents on file and belonging to this office, and relating to the claim of Davenport, Murphy, and Smith, to the Lanana tract, and numbered 180 in the report of the register and receiver of the 1st November, 1824.

In testimony whereof, I have hereunto set my hand and private seal of office, on this day above written.

[SEAL.] (Signed) P. HEBRARD, *Register*.

Document marked C C, filed with the foregoing document B B, and being a translation of a portion of said document B B, beginning at the line, on page , and ending at the line, on page of this transcript, is in the words and figures following, to wit:

C C.—*Translation*.

In the town of Nacogdoches, this third day of the month of November, in the year 1798, before me, Don Jose Maria Guadiana, cornet of cavalry, and military and civil commandant of said town, appeared Don Edward Murphy, and declared that he had ceded, and does cede, all title of property which [he] has in the land and rancho de San Pedro de la Nana, as appears by the preceding document in favor of the commercial partnership which exists between the said Murphy, Don William Barr, Don Samuel Davenport, and Mr. Smith; the said Don Edward Murphy expressing that, for himself, his children, his heirs, and successors, he renounces forever all right over said tract of land and rancho, and cedes and transfers it to the aforesaid company.

In testimony whereof, he signed with me, the said judge, and two assisting witnesses, with whom I act in default of a notary public, and on the present common paper, for want of the proper sealed or stamped paper. All which I certify.

(Signed) JOSE MA. GUADIANA.

Witness: JOSE LUIS DE LA BEGA,
PEDRO LARRA.

(The translation of the other portions of document "B B" appears in the petition from the line, on page , to the line, on page , of this transcript.)

And on the further hearing of the cause, February 24th, 1846, the following memorandum was, by order of the court, made by the clerk, and placed upon the record, to wit:

Petitioners' counsel further offered two certified copies from the general land office, in Texas, marked H and I. The U. S. district attorney objects to the papers now offered (viz., H and I) in support of the La Nana and Las Ormegas claims, on the same ground as above stated

in respect to documents A A and B B. Received by the court on the same terms as the documents marked "A A" and "B B."

(The document marked H, above mentioned, is in the words and figures following, to wit:)

S'or Ten'te de Gov'or: Jacinto Mora, vecino de este Pueblo de N'ra S'ra del Pilar de Nacogdoches, con el debido respecto, ante vm., paresco y digo: Que en la parte oriental del Rio Sabinas y parage llamado las Ormigas, distante unas veinte y cinco leguas de este enunciado pueblo, tengo actualmente mi caballada, y es mi intencion de hacer allí un rancho formal de ganado, mular, caballar, vacuno, lanar de pelo y de serda, con labores de campo; en cuya virtud, suplico á vm. se sirva concederme, para este efecto, á titulo de propriedad, para mi, mis hijos, y erederos, y otros que representen mi derecho, seis leguas de tierra quadras en el d'ho paraje de las Ormigas, comenzando el frente principal qe. mira al oriente, en extenderse seis leguas de norte á sur sobre la orilla oriental del citado Rio Sabinas, de manera qe. el paso de este, llamado de los Indios, qe. de en medio del memorado frente principal. La linea del lado qe. mira al norte debe principar del de la expresada orilla del enunciado Rio de Sabinas, á la extremidad norte de la linea qe. forma el frente principal, y extenderse seis leguas (seis leguas) al oriente, formando ambas lineas un angulo recto. La linea del lado que mira al sur comenzara á la extremidad sur de la linea qe. señala el frente principal, y se extendera seis leguas al oriente, formando tambien d'has dos ultimas lineas un angulo recto. La linea del lado oriente comensara desde la extremidad de la linea del lado norte, y correra paralela al mencionado Rio Sabinas hasta unirse con la extremidad de la linea del lado sur, de modo que los llanos del citado parage de las Ormigas queden comprendidos en el cuadro de seis leguas de largo pr. cada frente que forman las supracitadas quatro lineas. Por tanto, á vm. suplico se sirva consederme las seis referidas leguas de tierra quadradas, qe. compongan un quadro de seis leguas de largo pr. cada frente, en el indicado parage de las Ormigas, y en la manera qe. pido, por ser realengas, y no haber ningun vecino en el, aquien pueda perjudicar esta concesion: gracia qe. espero merecer de la justificacion de vm.

Nacogdoches y Noviembre catorze de mil setecientos noventa y cinco.

JACINTO MORA.

NACOGDOCHES, 14 *de Noviembre de* 1795.

El procurador de este comun, Don José Cayetano de Zepeda, establecera esta parte en el paraje qe. expresa y en los terminos qe. pide, siendo realengo y no perjudicando á ningun vecino, y evaquara á este efecto las diligencias de estilo que extendera á continuac'n para la confirmacion en forma de este titulo de propriedad.

BERNARDO FERNANDES.

A los dies dias del mes de Diciembre del año de mil setecientos noventa y cinco, en cumplim'to del decreto que antecede, yo, Don José Cayetano de Zepeda, sindico procurador del comun del Pueblo de N'ra

S'ra del Pilar de Nacogdoches, me he transportado, acompañado de los testigos á mi asistencia, Don José de la Bega y Julian Grande, en el paraje llamado las Ormigas, cito á unas veinte y cinco leguas del enunciado Pueblo de *de* Nacogdoches, en la orilla oriental del Rio Sabinas, á efecto de establecer en este paraje de las Ormigas á Jacinto Mora, qe. se halla presente, y darle la posesion que se me ordena; en cuya virtud, estando en este indicado paraje de las Ormigas, despues de haber inquirido si habia vecinos colindantes, para citarlos á estar presentes á esta actuacion, y quedar, yo bien cerciorado que las mas sercanos distan á unas diez ó doce leguas á lo menos de este mensionado paraje de las Ormigas, y qe. ninguno de los linderos de sus posesiones alcanzan en mas de tres ó cuatro leguas los linderos qe. señala Jacinto Mora, en su antecedente escrito, á este paraje de las Ormigas; pr. cuia razon, no se les perjudica en modo alguno á los mas sercanos vecinos, poniendo al d'ho Jacinto Mora en posesion de la tierra realenga que pide en su memorado escrito, con toda la estension y linderos qe. en el se espresan, y visitado estos linderos y territorio que ensierran, con los indicados testigos de assistancia, y con el supra mencionado Jacinto Mora, y cogiendo á este pr. la mano derecha, he andado con el una cantidad de pasos de norte á sur, y otra cantidad de pasos de este á oeste, y soltandolo despues de la mano, anduvo como quizo en d'ho territorio de las Ormigas, arranco yerbas, hizo hoyos en la tierra, planto estacas, corto arbolitos, cogio pedazos de tierra, los tiro al suelo, é hizo otras muchas cosas en señal de la posesion en que yo lo he puesto, en nombre de S. M., Q. D. G., de la d'ha tierra, con los linderos y estencion que ha pedido, y en demonstracion de la propriedad y señorio que ya tiene sobre ella, como unico dueño, qe. es en virtud de este auto de posesion; y por maior abundamiento del derecho de propiedad que para siempre tiene adquirido sobre d'ha tierra de seis leguas quadradas, en la manera, paraje, y linderos qe. expresa su consabido antecedente escrito, con las entradas, salidas, y usos, y servidumbres, que tiene el referido Jacinto Mora, puso á todo el mencionado territorio de las Ormigas, que ensierra el cuadro de seis leguas de largo por cada frente, el nombre de Santa Maria Adelaida, para que á perpetuidad sea llamado este mensionado territorio S'ta Maria Adelaida de las Ormigas, y quedando ya el suso d'ho Jacinto Mora en entera y pasifica posesion, conforme á derecho de toda la tierra indicada, para qe. con todos tiempos conste firmo este auto de posesion, con los mencionados testigos, en este paraje de Santa Maria Adeleyda de las Ormigas, en el mismo dia, mes, y año, qe. *ut supra*.

JOSE CAYETANO DE ZEPEDA.

JOSE LOUIS DE LA BEGA,
JULIAN GRANDE.

Don Bernardo Fernandez, ten'te de cavall'a y ten'te de Gov'r del Pueblo de N'tra Señora del Pilar de Nacogdoches, confirmese y dese este titulo de posecion en forma, en nombre de S. M., Q. D. G., á Jacinto Mora, á perpetuidad, para el, sus hijos, erederos, y otros qe. su

derecho representaren, por constar por la posesion qe. antecede del sindico procurador de este comun, Don José Cayetano de Zepeda, qe. el paño de tierra que expresa es realengo y no perjudica á sus vecinos.

Dado en el referido Pueblo de Nacogdoches, á los quince dias del mes de Diciembre del año de mil setecientos nobenta y cinco.

BERNARDO FERNANDEZ.

Concuerda este testimonio con su original qe. queda en el archivo de mi cargo, á que me remito de donde: Yo, Don José Maria Guadiana, ten'te de cavalleria y comandante militar y politico del Pueblo de Nacogdoches, lo hize sacar, corregir, y confrontar, va cierto y verdadero, corregido y confrontado, y á lo ver sacar se hallaron presentes como testigos instrumentales los vesinos, Don Guillermo Barr, Don Luis Reliquet, y Vicente del Rio; y para la debida constancia lo firme, yo, el mencionado ten'te de caballeria, con dos testigos de asistencia, con quienes auto, á falta de escrivano publico, á los veinte y siete dias del mes de Junio de mil ocho cientos cinco. De todo lo que doy fe.

DIONISIO VALLE.

De asistencia, JOSE PINEDA.
De asistencia, MANUEL BUSTAMENTE.

En el Pueblo de Nuestra Señora del Pilar de Nacogdoches, á los veinte y dos dias del mes de Julio del año de mil ochocientos cinco, ante mi, Don Dionisio Valle, ten'te de cavalleria y com'te militar y politico del referido pueblo, y en presencia de los tres testigos de mi asistencia, abajo firmados, con quienes autuo, á falta de escribano publico, porque no le hay en esta jurisdici'n, comparecio S'or Jacinto Mora, de esta vecindad, el cual dixo, que habia vendido y vende realmente á Don Guillermo Barr y Compañia, á saber, un paño de tierra, de qe. es dueño, segun acredita en el documento testimoniado que exibe, y es adjunto en el termino y jurisdiccion del citado Pueblo de Nacogdoches, situado veinte y cinco leguas distante de el, en el paraxe nombrado las Ormigas, orilla oriental del Rio de Sabinas; cuio paño de tierra es el mismo que le fue concedido por este Gobierno, en catorze de Noviembre de mil setecientos noventa y cinco; y para los fines que propuso en su peticion de la fecha citada, y en que manifesto las circunstancias de la tierra, sus puntos, distancias, y de mas que la componen, con todas las cuales segun suenan en la concesion y posesion que le ha sido dada de d'ha paño de tierra, constante en el mismo referido instrum'to de concession, hace el insinuado Don Guillermo Barr y Compañia la indicada venta, pr. libre de grabamen, porque no lo tiene, y por precio de docientos pesos en generos, al precio corr'te de este pueblo, y cincuenta en reales, cuia completa cantidad tiene recibida de contado, y á su voluntad, por lo qe. renuncia la non-numerata pecunia, prueba, y leyes de la entrega y otorga formal, recibo de ella, mediante lo cual se aparta el vendedor de la propiedad, posesion, util, dominio, y señorio, y demas acciones reales y personales qe. al nominado paño de tierra, segun y como esta concedido a tenido y todo lo sede y transfiere en el comprador, y en quien su derecho y causa hubiere, para qe. como propio lo posea ó enagene,

á su voluntad, por esta escriptura, qe. le otorga en señal de real entrega, y con lo qe. es visto haber adquirido la posec'n sin otra prueba de que le releba, y se obliga al saneamiento de esta venta en bastante forma, ó como mas combenga, con sus vienes habidos, y pr. haber con clausula guarentigia, contrato, egecutorio, poderio y sumision de justicias y renunciacion de leyes de su favor, con la g'ral en forma que lo prohibe; y estando presente el nominado Don Guillermo Barr, acepto á su fabor, por sí y compañia, esta escriptura, recibio comprado el relacionado paño de tierra en la conformidad qe. le es debido, del qe. se da pr. entregado, y otorga formal recibo; en cuio testimonio no firmo el vendedor, pr. qe. se halla ciego, pero rogo al vecino, Dn. José Cayetano de Zepeda, firmara en su nombre, y el comprador lo firmo tambien con los mencionados testigos de assistencia, y con migo, dicho com'te, qe. doy fee conosco los otorgantes.

DIONISIO VALLE.
A ruego de JACINTO MORA,
Firme yo, JOSE CAYETANO DE ZEPEDA.
GUILLERMO BARR.

De asist'a, MANUEL BUSTAMENTE.
De asist'a, BERNARDO MARTIN DESPALLIER.
De asist'a, JOSE PINEDA.

Concuerda este testimonio con su original qe. queda en el archibo de mi cargo, á que me remito de donde: yo, Don José Maria Guadiana, ten'te de cavalleria y com'te militar y politico del Pueblo de Nacogdoches, lo hize sacar, corregir, y confrontar, va cierto y verdadero, correjido y confrontado, y á lo ver sacar se hallaron presentes como testigos instrumentales los vecinos, Don José de la Bega, Dn. José Ignacio Flores, y Don José Ignacio Ybarbo, y para la debida constancia, lo firme, yo, el mencionado ten'te de cavalleria, con dos testigos de asistencia, con quienes autuo, á falta de escribano publico, á los catorse dias del mes de Abril del año mil ochocientos y diez.

JOSE MA. GUADIANA.

De asist'a, JOSE PINEDA,
De asist'a, MANUEL BUSTAMENTE.

S'or Gov'or: Don Guillermo Barr y Davenport, tratantes de las naciones Indias y vecinos de este pueblo, como mejor proceda y en derecho haya lugar, decimos: Que constando por el adjunto documento que debidam'te acompañamos la vienta de la tierra que el mismo expresa, verificado por el vecino de este Jacinto Mora, suplicamos A. V. S. que dandolo por bastante se sirva aprovarla y autorizarla con su decreto judicial, á efecto de que nos asegure el titulo y propriedad que en ella pues corresponda, con todos sus entradas, salidas, usos, costumbres, y servidumbres, para nos hijos, herederos, y subsesores, y pa. ello juramos lo necesario, justicia, &c.

BARR Y DEAVINPORT.

Suspendase el proveer sobre esta presentacion, y consultase á la superioridad, mediante á estar las tierras de que se trata en el terreno neutro en la orilla oriental del Sabinas. SALCEDO.

derecho representaren; por constar por la posesion qe. antecede del sindico procurador de este comun, Don Jòsé Cayetano de Zepeda, qe. el paño de tierra que expresa es realengo y no perjudica á sus vecinos.

Dado en el referido Pueblo de Nacogdoches, á los quince dias del mes de Diciembre del año de mil setecientos nobenta y cinco.

BERNARDO FERNANDEZ.

Concuerda este testimonio con su original qe. queda en el archivo de mi cargo, á que me remito de donde Yo, Don José Maria Guadiana, ten'te de cavalleria y comandante militar y politico del Pueblo de Nacogdoches, lo hize sacar, corregir, y confrontar, va cierto y verdadero, corregido y confrontado, y á lo ver sacar se hallaron presentes como testigos instrumentales los vesinos, Don Guillermo Barr, Don Luis Relliquet, y Vicente del Rio; y para la debida constancia lo firme, yo, el mencionado ten'te de caballeria, con dos testigos de asistencia, con quienes auto, á falta de escrivano publico, á los veinte y siete dias del mes de Junio de mil ocho cientos cinco. De todo lo que doy fe.

DIONISIO VALLE.

De asistencia, JOSE PINEDA.
De asistencia, MANUEL BUSTAMENTE.

En el Pueblo de Nuestra Señora del Pilar de Nacogdoches, a los veinte y dos dias del mes de Julio del año de mil ochocientos cinco, ante mi, Don Dionisio Valle, ten'te de cavalleria y com'te militar y politico del referido pueblo, y en presencia de los tres testigos de mi asistencia, abajo firmados, con quienes autuo, á falta de escribano publico, porque no le hay en esta jurisdici'n, comparecio s'or Jacinto Mora, de esta vecindad, el cual dixo, que habia vendido y vende realmente a Don Guillermo Barr y Compañia, á saber, un paño de tierra, de qe. es dueño, segun acredita en el documento testimoniado que exibe, y es adjunto en el termino y jurisdiccion del citado Pueblo de Nacogdoches, situado veinte y cinco leguas distante de el, en el paraxe nombrado las Ormigas, orilla oriental del Rio de Sabinas; cuio paño de tierra es el mismo que le fue concedido por este Gobierno, en catorze de Noviembre de mil setecientos noventa y cinco; y para los fines que propuso en su peticion de la fecha citada, y en que manifesto las circunstancias de la tierra, sus puntos, distancias, y de mas que la componen, con todas las cuales segun suenan en la concesion y posesion que le ha sido dada de d'ha paño de tierra, constante en el mismo referido instrum'to de concession, hace el insinuado Don Guillermo Barr y Compañia la indicada venta, pr. libre de grabamen, porque no lo tiene, y por precio de docientos pesos en generos, al precio corr'te de este pueblo, y cincuenta en reales, cuia completa cantidad tiene recibida de contado, y á su voluntad, por lo qe. renuncia la non-numerata pecunia, prueba, y leyes de la entrega y otorga formal recibo de ella, mediante lo cual se aparta el vendedor de la propiedad, posesion, util, dominio, y señorio, y demas acciones reales y personales qe. al nominado paño de tierra, segun y como esta concedido a tenido y todo lo sede y transfiere en el comprador, y en quien su derecho y causa hubiere, para qe. como propio lo posea ó enagene,

á su voluntad, por esta escriptura, qe. le otorga en señal de real entrega, y con lo qe. es visto haber adquirido la posec'n sin otra prueba de que le releba, y se obliga al saneamiento de esta venta en bastante forma, ó como mas combenga, con sus vienes habidos, y pr. haber con clausula guarentigia, contrato, egecutorio, poderio y sumision de justicias y renunciacion de leyes de su favor, con la g'ral en forma que lo prohibe; y estando presente el nominado Don Guillermo Barr, acepto á su favor, por si y compañia, esta escriptura, recibio comprado el relacionado paño de tierra en la conformidad qe. le es debido, del qe. se da pr. entregado, y otorga formal recibo; en cuio testimonio no firmo el vendedor, pr. qe. se halla ciego, pero rogo al vecino Dn. José Cayetano de Zepeda, firmara en su nombre, y el comprador lo firmo tambien con los mencionados testigos de assistencia, y con migo, dicho com'te, qe. doy fee conosco los otorgantes.

DIONISIO VALLE.
A ruego de JACINTO MORA.
Firme yo, JOSE CAYETANO DE ZEPEDA.
GUILLERMO BARR.

De asist'a, MANUEL BUSTAMENTE.
De asist'a, BERNARDO MARTIN DESPALLIER.
De asist'a, JOSE PINEDA.

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JOSE MA. GUADIANA.

De asist'a, JOSE PINEDA.
De asist'a, MANUEL BUSTAMENTE.

S'or Gov'or: Don Guillermo Barr y Davenport, tratantes de las naciones Indias y vecinos de este pueblo, como mejor proceda y en derecho haya lugar, decimos: Que constando por el adjunto documento que debidam'te acompañamos la vienta de la tierra que el mismo expresa, verificado por el vecino de este Jacinto Mora, suplicamos A. V. S. que dandolo por bastante se sirva aprovarla y autorizarla con su decreto judicial, á efecto de que nos asegure el titulo y propriedad que en ella pues corresponda, con todos sus entradas, salidas, usos, costumbres, y servidumbres, para nos hijos, herederos, y subsesores, y pa. ello juramos lo necesario, justicia, &c.

BARR Y DEAVINPORT.

Suspendase el proveer sobre esta presentacion, y consultase á la superioridad, mediante á estar las tierras de que se trata en el terreno neutro en la orilla oriental del Sabinas.

SALCEDO.

derecho representaren, por constar por la posesion qe. antecede del sindico procurador de este comun, Don José Cayetano de Zepeda, qe. el paño de tierra que expresa es realengo y no perjudica á sus vecinos.

Dado en el referido Pueblo de Nacogdoches, á los quince dias del mes de Diciembre del año de mil setecientos nobenta y cinco.

BERNARDO FERNANDEZ.

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DIONISIO VALLE.

De asistencia, JOSE PINEDA.
De asistencia, MANUEL BUSTAMENTE.

En el Pueblo de Nuestra Señora del Pilar de Nacogdoches, á los veinte y dos dias del mes de Julio del año de mil ochocientos cinco, ante mi, Don Dionisio Valle, ten'te de cavalleria y com'te militar y politico del referido pueblo, y en presencia de los tres testigos de mi asistencia, abajo firmados, con quienes autuo, á falta de escribano publico, porque no le hay en esta jurisdici'n, comparecio S'or Jacinto Mora, de esta vecindad, el cual dixo, que habia vendido y vende realmente á Don Guillermo Barr y Compañia, á saber, un paño de tierra, de qe. es dueño, segun acredita en el documento testimoniado que exibe, y es adjunto en el termino y jurisdiccion del citado Pueblo de Nacogdoches, situado veinte y cinco leguas distante de el, en el paraxe nombrado las Ormigas, orilla oriental del Rio de Sabinas; cuio paño de tierra es el mismo que le fue concedido por este Gobierno, en catorze de Noviembre de mil setecientos noventa y cinco; y para los fines que propuso en su peticion de la fecha citada, y en que manifesto las circunstancias de la tierra, sus puntos, distancias, y de mas que la componen, con todas las cuales segun suenan en la concesion y posesion que le ha sido dada de d'ha paño de tierra, constante en el mismo referido instrum'to de concession, hace el insinuado Don Guillermo Barr y Compañia la indicada venta, pr. libre de grabamen, porque no lo tiene, y por precio de docientos pesos en generos, al precio corr'te de este pueblo, y cincuenta en reales, cuia completa cantidad tiene recibida de contado, y á su voluntad, por lo qe. renuncia la non-numerata pecunia, prueba, y leyes de la entrega y otorga formal, recibo de ella, mediante lo cual se aparta el vendedor de la propiedad, posesion, util, dominio, y señorio, y demas acciones reales y personales qe. al nominado paño de tierra, segun y como esta concedido a tenido y todo lo sede y transfiere en el comprador, y en quien su derecho y causa hubiere, para qe. como propio lo posea ó enagene,

á su voluntad, por esta escriptura, qe. le otorga en señal de real entrega, y con lo qe. es visto haber adquirido la posec'n sin otra prueba de que le releba, y se obliga al saneamiento de esta venta en bastante forma, ó como mas combenga, con sus vienes habidos, y pr. haber con clausula guarentigia, contrato, egecutorio, poderio y sumision de justicias y renunciacion de leyes de su favor, con la g'ral en forma que lo prohibe; y estando presente el nominado Don Guillermo Barr, acepto á su fabor, por sí y compañia, esta escriptura, recibio comprado el relacionado paño de tierra en la conformidad qe. le es debido, del qe. se da pr. entregado, y otorga formal recibo; en cuio testimonio no firmo el vendedor, pr. qe. se halla ciego, pero rogo al vecino, Dn. José Cayetano de Zepeda, firmara en su nombre, y el comprador lo firmo tambien con los mencionados testigos de assistencia, y con migo, dicho com'te, qe. doy fee conosco los otorgantes.

DIONISIO VALLE.
A ruego de JACINTO MORA,
Firme yo, JOSE CAYETANO DE ZEPEDA.
GUILLERMO BARR.

De asist'a, MANUEL BUSTAMENTE.
De asist'a, BERNARDO MARTIN DESPALLIER.
De asist'a, JOSE PINEDA.

Concuerda este testimonio con su original qe. queda en el archibo de mi cargo, á que me remito de donde: yo, Don José Maria Guadiana, ten'te de cavalleria y com'te militar y politico del Pueblo de Nacogdoches, lo hize sacar, corregir, y confrontar, va cierto y verdadero, correjido y confrontado, y á lo ver sacar se hallaron presentes como testigos instrumentales los vecinos, Don José de la Bega, Dn. José Ignacio Flores, y Don José Ignacio Ybarbo, y para la debida constancia, lo firme, yo, el mencionado ten'te de cavalleria, con dos testigos de asistencia, con quienes autuo, á falta de escribano publico, á los catorse dias del mes de Abril del año mil ochocientos y diez.

JOSE MA. GUADIANA.

De asist'a, JOSE PINEDA,
De asist'a, MANUEL BUSTAMENTE.

S'or Gov'or: Don Guillermo Barr y Davenport, tratantes de las naciones Indias y vecinos de este pueblo, como mejor proceda y en derecho haya lugar, decimos: Que constando por el adjunto documento que debidam'te acompañamos la vienta de la tierra que el mismo expresa, verificado por el vecino de este Jacinto Mora, suplicamos A. V. S. que dandolo por bastante se sirva aprovarla y autorizarla con su decreto judicial, á efecto de que nos asegure el titulo y propriedad que en ella pues corresponda, con todos sus entradas, salidas, usos, costumbres, y servidumbres, para nos hijos, herederos, y subsesores, y pa. ello juramos lo necesario, justicia, &c.

BARR Y DEAVINPORT.

Suspendase el proveer sobre esta presentacion, y consultase á la superioridad, mediante á estar las tierras de que se trata en el terreno neutro en la orilla oriental del Sabinas. SALCEDO.

I, Joseph Baker, Spanish clerk of the general land office of the Republic of Texas, duly sworn and bonded, do hereby certify, that the above is a correct copy of a document on file in this office; the words "y por precio de docientos en generos" having been interlined previous to attaching this certificate.

Austin, May 28th, 1845.

(Signed) JOSEPH BAKER,
Spanish clerk, general land office.

GENERAL LAND OFFICE, *Austin, 28th May*, 1845.

I, Thos. Wm. Ward, commissioner of the general land office of the Republic of Texas, do hereby certify, that Joseph Baker, whose name is signed to the above certificate, is the Spanish clerk of said office, and that as such his acts are entitled to full faith and credit.

In testimony whereof, I have hereunto set my hand, and affixed the [SEAL.] impress of the seal of said office, the day and date above written.

(Signed) THOS. WM. WARD, *Commissioner*.

REPUBLIC OF TEXAS, *Harris county, ss:*

I, the undersigned, acting Secretary of State for the Republic of Texas, do certify, that Thomas Wm. Ward, whose name is subscribed to the foregoing certificate, is, and was at the date of said certificate, the commissioner of the general land office of this republic; also, that the seal affixed to his said certificate is the seal of the general land office aforesaid; also, that the foregoing attestation is in the usual mode, and that full faith and credit are due to the same as an official act, and to all his acts as such commissioner.

In testimony whereof, I hereunto affix my name and private seal, (being absent from the place where my official seal is kept,) this second day of June, anno domini 1845.

(Signed) EBN'R ALLEN. [SEAL.]

The undersigned, charge d'affaires of the United States, hereby certifies, that Ebenezer Allen, whose name is subscribed to the foregoing certificate, was, at the time of signing the same, the acting secretary of state of Texas, and that full faith and credit are due to his acts as such.

In testimony whereof the undersigned hereto affixed the private seal [SEAL.] of his office, having no public one, and subscribes his name, this 4th day of June, 1845, at Galveston, in Texas.

(Signed) A. J. DONELSON.

GENERAL LAND OFFICE, *Austin, August 31st*, 1845.

I, Thos. Wm. Ward, commissioner of the general land office of the Republic of Texas, do hereby certify, that the above and foregoing exemplification is a true copy of a title on file in this office.

In testimony whereof, I have caused the seal of the general land [SEAL.] office aforesaid to be hereunto affixed, the day and date above written.

(Signed) THOS. WM. WARD

REPUBLIC OF TEXAS, *Department of State*.

I, the undersigned, secretary of state of the republic aforesaid, do hereby certify, that Ths. Wm. Ward, whose name is subscribed to the instrument of writing hereto annexed, is, and was at the time of signing the same, the commissioner of the general land office of the Republic of Texas; also, that the seal affixed thereto is the seal of the general land office; and that full faith and credit are due his official act as such.

In testimony whereof the official seal of the department is hereunto affixed. Done at Washington, this fourth day of September, [SEAL.] anno domini 1845, and of the independence of the republic the tenth.

(Signed) EBN'R ALLEN.

Consulate of the United States of America, at Galveston, Republic of Texas.

I, Elisha A. Rhodes, consul of the United States of America, do hereby certify, that the honorable Ebenezer Allen, whose signature and official seal appear to the annexed certificate, is and was at the time the said certificate bears date, (to wit,) the fourth day of September, (instant,) the secretary of state of the republic of Texas.

In testimony whereof I hereunto subscribe my name and affix the seal of this consulate, at Galveston, the 12th day of September, in the year of our Lord one thousand eight hundred and forty-five, and of the independence of the United States the seventieth.

(Signed) E. A. RHODES, [SEAL.]
Act'g U. S. Consul.

Translation of part of the foregoing document H, viz: of the transfer of the Ormigas tract from Jacinto Mora to Wm. Barr & Co., and of the certificate of Guadiana; also of the petition of Barr and Davenport, and of the order of Salcedo thereon, filed February 25th, 1846.

In the town of our Lady of the Pillar of Nacogdoches, on the 22d of July, 1805, before me, Don Dionisio Valle, lieut. of cavalry, commandant military and civil of the said town, and in presence of the three witnesses subscribed assisting me, with whom for want of a notary public, there being none in this jurisdiction, I act, appeared Jacinto Mora, of this place, who says, that he has sold, and does by these actually sell, to William Barr & Co., to wit, a tract of land, of which he is owner, as set forth in the authenticated document which he exhibits, and which is annexed, within the jurisdiction and limits of this town of Nacogdoches aforesaid, situate at the distance of 25 leagues from it, in the district called Las Ormigas, on the eastern bank of the river Sabine, which tract of land is the same granted him by this government, on the 14th of November, 1795, and for the purposes which he proposed in his petition of the aforesaid act, and in which he shows the situation of the land, its points, distances, &c., which compose it, with all which, as is customary in the concession and possession which have been given him of the said tract of land, as appears by the same instrument of concession

aforesaid, he makes to William Barr & Co. the said sale, as free from incumbrance, their being none, and for the price of $200, in merchandise, at the rates current of this town, and $50 in money, which full sum he has received in cash, at his disposal, for which he renounces the non numerata pecunia, the proof of, and laws relating to, tradition, and he grants a formal receipt therefor; in consideration whereof the seller divests himself of proprietorship, possession, useful ownership, and dominion, with the actions real and personal pertaining to said tract of land according to grant of it; all of which he transfers to the buyer and to whomever may have his rights and cause, to hold or alienate at his pleasure, as owner, by this instrument of writing, which he executes in sign of real delivery, and with which he is considered to have acquired possession without any other proof, of which he is released, and binds himself to make good this sale in sufficient form, or as may be most proper, with his property both present and future, with the clause of warranty, with executory authority and submission of justice, and renunciation of the laws in his favor, with the general one in favor which prohibits it; and the aforesaid William Barr being present, accepted this instrument of writing for himself and Co., received as purchased the aforesaid tract of land, and executed a formal receipt.

In testimony whereof the vendor did not sign, because he is blind, but requested the citizen, Don Jose Cayetano de Zepeda, to sign in his name, and the purchaser signed also with the aforesaid assisting witnesses and myself, the aforesaid commandant, who certify that I know the parties contracting.

DIONISIO VALLE.

At the request of Jacinto,

I, JOSE CAYETANO DE ZEPEDA.

WILLIAM BARR.

Assisting witnesses, MANUEL BUSTAMENTE,

BERNARDO MARTIN DESPALLIER.

JOSE PINEDA.

This copy agrees with its original which remains in the archives under my charge to which I refer, and from which, I, Don Jose Maria Guadiana, lieut. of cavalry and military and civil commandant, caused it to be copied, corrected, and compared. It is a certain, true, compared, and corrected copy, and at the making of it were present, as instrumental witnesses, the citizens, Don Jose de la Bega, Jose Flores, Jose Ignacio y Barbo, and for its proper authentication, I, the aforesaid lieut. of cavalry, signed it with two assisting witnesses, with whom I act, for want of a notary public, this 14th of April, 1810.

JOSE MARIA GUADIANA.

Assisting witnesses, JOSE PINEDA,

MANUEL BUSTAMENTE.

To his Excellency the Governor: We, Barr and Davenport, Indian traders, inhabitants of this town, in order better to proceed in the acquisition of our rights, showing that the sale of the land is evidenced by the

duly annexed document, itself descriptive of said lands and executed by Jacinto Mora, also a resident of this town, pray your excellency, should you find said document sufficient to approve and sanction it by a judicial decree, in order to secure to us, our heirs, representatives, &c., the title and ownership of said lands, with all entries, exits, uses, customs, servitude, &c.; wherefore we make the necessary oaths, justice, &c.

BARR & DAVENPORT.

Order.

Let all proceedings in this petition be suspended, and the superior authority be consulted, inasmuch as the lands of which it treats are situated in the Neutral territory, on the eastern bank of the Sabine.

SALCEDO.

Document I, above mentioned, relating to the La Nana tract, is in the words and figures following, to wit:

Señor Teniente Gobernador: Don Edwardo Murphy, del vecindario de Natchitoches, ante vm., paresco y digo: Que hay el tiempo de tres años que va a quatro que tengo, en este jurisdiccion de Nacogdoches, del cargo de vm., con conosimiento de los señores comandantes, sus antecesores establecido un rancho en el parage conocido por la laguna de Juan de Mora, y en el conservado ganado, mayor, y otros animales, de los cuales hasta el dia de hoy tengo pagado el derecho de decimas, segun es costumbres en esta provincia, y hallandose dicho parage es caso de carrisales suficientes, para la conservacion y aumento de dichos animales, ocurro a vm., pidiendo se me concede, a titulo de propieded, un paño de tierra en el parage llamado La Nana, que se halla cito en la parte oriental del rio de Sabinas, como unas siete leguas de sus margenes, y en el camino real que va de este pueblo al puesto de Natchitoches; dicho paño de tierra, desde el centro de el, que es el llano que junto al arroyo de la cidada Nana, se encuentra en el referido camino real largo de dos leguas por cada viento principal, de manera que forme un quadro perfecto, cuios frentes tengan cada uno quatro leguas de largo, y sea centro de dicho quadro el enunciado llano, para en este espacio de tierra poder yo tener suficientes agostadores para mis actuales ganados y los que fuere criando; en cuia virtud, y en la de ser realenga la tierra que solicito, y no haber ningun vecino sercano al indicado parage que yo encomode, pues el mas proximo es el nombrado Charbono, que se halla unas ocho leguas distante, en la parte occidental del nombrado Rio Sabinas. A vm. suplico se sirba concederme este gracia, que espero merecer de la justificacion de vm.

Nacogdoches y Febrero veinte y dos de mil setecientos noventa y ocho. E. MURPHY.

Pase este instancia al procurador, para que deje en posesion a esta parte en el parage que señala.

Nacogdoches, 1o de Julio de 1798.

GUADIANA.

Agosto del año de mil setecientos nobenta y ocho, en cumplimiento

del decreto que antecede, yo, Don Jose Cayetano de Zepeda, sindico procurador del comun del Pueblo de Nuestra Señora del Pilar de Nacogdoches, me he trasportado, accompañado de los testigos de mi assistancia, Juan José Medina y José Domingues, en el parage llamada la Nana, á efecto de establecer en este parage de la Nana, á Don Edwardo Murphy, que se halla presente, y darle la posesion que se me ordeno; en cuya virtud, estando en este indicado parage, despues de haber inquirido se havia vecinos colindantes, para sitarlos á estar presentes á esta actuacion y quedar, yo bien cercionado de que el mas cercano qe. es Monsieur Charbono, dista unas ocho leguas á lo menos del mencionado paraje de Nana, y no hallando impedimiento alguno, poniendo el dicho Don Eduardo Murphy en posesion de la tierra realenga que pide en su memorado escrito, con toda la estencion y linderos que en el se expresan, he visitado estos linderos y territorio, con los indicados testigos de assistencia, y con el supra mencionado Don Eduardo Murphy, estendiendole dos leguas por el camino real de San Antonio de Bexar al viente del poniente, que alcansan hasta los chupaderos, y otros dos leguas de tierra para el viente del oriente, que alcansan por dicho camino real al Arroyo del Tapon, y dos leguas para el viente del norte, y dos leguas para el viente del sur, y tomandolo por la mano derecha, he andado con el una cantidad de pasos de oriente á poniente, y soltandolo despues de la mano, anduvo conquizo en dicho territorio de la Nana, arranco yerbas, hizo hoyos en la tierra, planto estacas, corto arbolitas, cogio pedazos de tierra, los tiró al suelo, é hizo otras muchas cosas en señal de la posesion en que yo lo he puesto, en nombre de S. M., Q. D. G., de la dicha tierra, con los linderos y estencion que ha pedido, y en demonstracion de la propiedad y señorio que ya tierra sobre ella como unico dueño, que es en virtud de este auto de posesion; y para maior abundamiento del derecho de propriedad que para siempre tiene adquirido sobre dicha tierra de ocho leguas, dos por cada viendo, en la manera, paraje, y linderos, que expresa su consabido antecedente escrito, con las entradas, salidas, hiyos, cosstumbres, y servidumbres, que tiene el referido Don Eduardo Murphy, puso á todo el mencionado territorio de la Nana, que encierza el cuadro de ocho leguas, dos por cada viento, el nombre de San Pedro del Arroyo de la Nana, y quedando ya el susodicho Don Eduardo Morfi en entera y pasifica posesion, conforme á derecho de toda la tierra indicada, para en todos tiempos conste firmo este auto de posecion, con los mencionados testigos, en este paraje de San Pedro del Arroyo de la Nana, en el mismo dia, mes, y año. JOSE CALLETANO DE ZEPEDA.

De asistencia, JUAN JOSE MEDINA.
De asistencia, JOSE DOMINGUEZ.

En el puesto de Nacogdoches, á los cuatro dias del mes de Agosto del corriente año mil setecientos noventa y ocho, yo, Don Jose Maria Guadiana, alferez segundo de la comp'a de Monclova y comandante militar y politico de d'ho pueblo, dixo: Que en virtud de haberse dado la antecedente posesion de tierra á Don Edwardo Morfil, sin contradic-

cion alguno se archibe este docum'to original en el protocolo de esta nominado puesto, para la debida constancia, y se le de a la parte interesada testimonio para qe. le sirva de titulo de propriedad, y pa. qe. conste lo sente por diligencia qe. firme, con dos testigos de asistencia, con quienes autuo, á falta de escribano publico, y en el presente papel comun, por falta del sellado qe. corresponde. De lo qe. doy fee.

JOSE MARIA GUADIANA.

De asistencia, PEDRO DE LARA,
De asistencia, JOSE LUIS DE LA BEGA.

En el pueblo de Nacogdoches, á las tres dias del mes de Noviembre del año de mil setecientos noventa y ocho, ante mi, Dn. José Maria Guadiana, alferez de caballeria y com'te militar y politico en d'ho pueblo, comparecio Dn. Eduardo Murphy, y declaro haber cedido y sede todo el titulo de propiedad que tiene en la tierra y rancho de San Pedro de la Nana, qe. se refiere en el antecedente documento, á favor de la compan'a de comercio que existe entre el d'ho Murphy, Don Guillermo Barr, Don Samuel Davenport, y Mr. Esmit, espresando el el mensionado Don Edward Murphy, que para el, sus hijos, herederos, y subsesores, renuncia para siempre todo derecho sobre d'ha tierra y rancho, y lo cede y traspase en la mencionada comp'a, y para la devida constancia lo firme, con migo d'ho juez, y dos testigos de asistencia, con quienes autuo, á falta de escrivano publico, y en el presente papel comun, por falta del sellado que corresponde. De todo lo que doy fee.

JOSE MARIA GUADIANA.
E. MURPHY.

De asistencia—
PEDRO LARA,
JOSE LUIS DE LA BEGA.

Concuerda este testimonio con su original que queda en el archibo de mi cargo, á que me remito de donde: yo, Don José Maria Guadiana, ten'te de caballeria y com'te militar y politico del Pueblo de Nacogdoches, lo hize sacar, corregir, y confrontar, va cierto y verdadero, y á lo ver sacar se hallaron presentes como testigos instrumentales los vecinos, Dn. José de la Bega, Dn. José Flores, y Dn. José Ignacio *Ignacio* Ybarbo, y pa. la debida constancia lo firme, yo, el mencionado ten'te de caballeria, con dos testigos de asistencia, con quienes autuo, á falta de escribano publico, á los quince dias del mes de Abril del año de mil ochosientos diez.

JOSE MA. GUADIANA.

De asist'a, JOSE PINEDA,
De asist'a, MANUEL BUSTAMENTE.

S'or Gov'r: Don Guillermo Barr y Davenport, tratantes de las naciones Indias y vecinos de este pueblo, como mejor procedan y en derecho haya lugar, decimos: Que constando pr. el adjunto documento, que debidamente acompañamos la cesion que nos hizo Don Edwardo Murphy de la tierra y rancho de San Pedro de la Nana, suplicamos á V. S. se sirva haberla por manifestada é intimada legitiman'te, y en su

consequencia aprobarla é interponer sin autoridad judicial, pa. su mayor firmeza y validacion, y mandar se nos entregue original esto pedimento y auto, que sobre el recarga, pa. los fine qe. nos combenga, y para ello juramos lo necessario, &c.

BARR Y DEAVINPORT.

Suspendase el proveer sobre esta presentacion, y consultese á la superioridad, mediante á estar las tierras de que se trata en el territorio neutro en la orilla oriental del Sabinas.

SALCEDO.

I, Joseph Baker, Spanish clerk of the general land office of the Republic of Texas, do hereby certify, that the foregoing is a correct copy of a document on file in said office; the word "hizo" having been interlined previous to attaching this certificate.

AUSTIN, *May 25th*, 1845.

(Signed) JOSEPH BAKER,
Spanish clerk gen. land office.

GENERAL LAND OFFICE,
Austin, 28th May, 1845.

I, Thos. Wm. Ward, commissioner of the general land office of the Republic of Texas, do hereby certify, that Joseph Baker, whose name is signed to the above certificate, is the Spanish clerk of said office, duly sworn and bonded; and that as such his acts are entitled to full faith and credit.

In testimony whereof I have hereunto set my hand, and affixed the [SEAL.] impress of the seal of said office, the day and date above written.

(Signed) THOS. WM. WARD,
Commissioner.

REPUBLIC OF TEXAS,
Harris county, ss:

I, the undersigned, acting Secretary of State for the Republic of Texas, do certify, that Thos. Wm. Ward, whose name is subscribed to the foregoing certificate, is, and was at the date of said certificate, the commissioner of the general land office of this republic; also, that the seal affixed to his said certificate is the seal of the general land office aforesaid; also, that the foregoing attestation is in the usual mode, and that full faith and credit are due to the same, and to all his official acts as such commissioner.

In testimony whereof I hereunto affix my name and private seal, [SEAL.] (being absent from the place where my official seal is kept,) this second day of June, anno domini 1845.

(Signed) EBN'R ALLEN.

The undersigned chargé d'affaires of the United States, hereby certifies, that Ebenezer Allen, whose name is subscribed to the foregoing certificate, was, at the time of signing the same, the acting secretary of

state of Texas, and that full faith and credit are due to his acts as such.

In testimony whereof the undersigned hereto affixes the private seal of his office, having no public one, and subscribes his name, this 4th day of June, 1845, at Galveston, in Texas.

[SEAL.]

(Signed) A. J. DONELSON.

GENERAL LAND OFFICE,
Austin, August 31*st*.

I, Thomas William Ward, commissioner of the general land office of the Republic of Texas, do hereby certify, that the above and foregoing exemplification is a true and correct copy of a title on file in this office.

In testimony whereof I have caused the seal of the general land office aforesaid to be hereunto affixed, the day and date above written.

[SEAL.]

(Signed) THOS. WM. WARD.

REPUBLIC OF TEXAS, *Department of State:*

I, the undersigned, secretary of state of the republic aforesaid, do hereby certify, that Thos. Wm. Ward, whose name is subscribed to the instrument of writing hereto annexed, is, and was at the time of signing the same, the commissioner of the general land office of the Republic of Texas, and that the seal affixed thereto is the seal of the general land office; and that full faith and credit are due his official acts as such.

In testimony whereof the official seal of the department is hereunto affixed.

Done at Washington, this fourth day of September, anno domini 1845, and of the independence of the Republic the tenth.

[SEAL.]

(Signed) EBN'R ALLEN.

CONSULATE OF THE UNITED STATES OF AMERICA,
At Galveston, Republic of Texas:

I, Elisha A. Rhodes, acting consul of the United States of America, do hereby certify, that the honorable Ebenezer Allen, whose signature and official seal appear to the annexed certificate, is, and was at the time the said certificate bears date, to wit, the fourth day of September (instant,) the secretary of state of this Republic.

In testimony whereof I hereunto subscribe my name, and affixed the seal of this consulate, at Galveston, the 12th day of September, in the year of our Lord one thousand eight hundred and forty-five, and of the independence of the United States seventieth.

[SEAL.]

(Signed) E. A. RHODES,
Acting U. S. consul.

(Translation of a part of the foregoing document I, viz., of the transfer from Edward Murphy to Wm. Barr & Co., and of the certificate of Guadiana; also of the petition of Barr and Davenport, and the order of Salcedo thereon; filed February 25th, 1846.)

In the town of Nacogdoches, this 3d of November, 1798, before me, Don Jose Maria Guadiana, cornet of cavalry, military and civil commandant of said town, appeared Edward Murphy, who declared that he has ceded, and does by these presents cede, all the title of property which he has in the land and stock farm of San Pedro de La Nana, which is referred to in the preceding document, in favor of the commercial company which exists between said Murphy, William Barr, Samuel Davenport, and Mr. Smith; said Edward Murphy declaring that, for himself, his children, heirs and successors, he renounces forever all right to said land and stock farm, and transfers it to said company; and for its proper authentication he signed it, with me, the aforesaid judge, and two assisting witnesses, with whom I act for want of a notary public, and on this common paper, there being none stamped suitable; all which I certify.

JOSE MARIA GUADIANA,
EDWARD MURPHY.

Assisting witnesses:
PEDRO LARA,
JOSE LOUIS DE LA BEGA.

This copy agrees with its original, which remains in the archives under my charge, to which I refer, and from which I, Don Jose Maria Guadiana, lieutenant of cavalry, and military and civil commandant, caused it to be copied, corrected, and compared. It is a certain, true, compared, and corrected copy; and, at the making of which, were present, as instrumental witnesses, the citizens Don Jose de la Bega, Jose Flores, Jose Ignacio Y Barbo; and, for its proper authentication, I, the aforesaid lieutenant of cavalry, signed it, with two assisting witnesses, with whom I act for want of a notary public, this 15th of April, 1810.

JOSE MARIA GUADIANA.

Assisting witnesses:
JOSE PINEDA,
MANUEL BUSTAMENTE.

To his excellency the governor.

We, Barr and Davenport, Indian traders, inhabitants of this town, in order better to proceed in the acquisition of our rights, showing that the duly annexed document evidences the transfer of the tract of land called San Pedro de la Nana, made to us by Don Edward Murphy, pray that your excellency will consider it legally proved, and, in consequence, approve, and by the exercise of your judicial authority give it greater strength and validity; and that this original petition be delivered to us, with the decree necessary, in order that we may use them for our purposes. Wherefore we make the necessary oaths, &c.

BARR & DAVENPORT.

Let all proceedings on this petition be suspended, and the superior authority be consulted, inasmuch as the lands of which it treats are situated in the Neutral territory, on the eastern bank of the Sabine.

SALCEDO.

On the further trial of this case, two certain acts of the Texas legislature, found on pages two hundred and sixteen and two hundred and sixy of a certain volume, purporting to be the laws of Texas, and which was, offered in evidence in the case of Yates and McIntyre, was under an agreement made under the date of the 3d of March, 1845, offered in this case, subject to the same exception as in the other case.

An act to establish a general land office for the Republic of Texas.

Sec. 1. Be it enacted by the Senate and House of representives of the Republic of Texas, in Congress assembled, That there shall be, and is hereby, established a general land office, for chief officer of which shall be styled the commissioner of the general land office, who shall hold his office at the seat of government, whose duty it shall be to superintend, execute, and perform all acts and things touching or respecting the public lands of the Republic of Texas.

Sec. 2. And be it further enacted, That there shall be in the said office an inferior officer, to be appointed by the said principal officer, to be employed therein as he shall deem proper, and be called the chief clerk of the general land office; who, in all cases, when the said principal office shall become vacant, during such vacancy shall have the charge and custody of the seal, and all records, books, and papers belonging to the said office.

Sec. 3. And be it further enacted, That the said principal officer, and every other person to be appointed and employed in the said office, shall, before he enters on the duties of his office, take and subscribe the following oath of office: "I, A. B., do solemnly swear or affirm, that I will honestly and faithfully discharge the duties of my office as without favor or partiality, so help me God."

Sec. 4. And be it further enacted, That the said commissioner of the general land office shall cause a seal to be made and provided for the said office, with such device as the president of the Republic shall approve, and copies of any records, books, or papers belonging to the said office, under the signature of the said commissioner, or, when the office shall become vacant, under the signature of the chief clerk, and the seal shall be competent evidence in all cases in which the original records, books, or papers, could be evidence.

Sec. 5. And be it further enacted, That the said commissioner shall forthwith, after his appointment, be entitled to the custody, and shall take charge of the said seal, and also all the records, books, and papers in any way appertaining to the lands of the republic, and that may now be in the care or possession of all empresaries, political chief, alcades, commissarios, or commissioners for issuing land titles, or any other person; and the said records, books, and papers shall become and be deemed the books and papers of the said office.

Sec. 6. And be it further enacted, That the said commissioner shall, when required by the president of the Republic of Texas, or either house of Congress, make a plat of any land surveyed under the authority of the government, and give such information respecting the public

lands, and concerning the business of his office, as shall be legally required.

Sec. 7. And be it further enacted, That in all cases in which land shall be hereafter given by the Republic of Texas, for military services, warrants shall be granted to the parties entitled to such lands, by the Secretary of War, and such warrant shall be recorded in books to be kept by him for that purpose, and shall be located as is provided in this act.

Sec. 8. And be it further enacted, That all patents issuing from the said office, shall be in the name of the Republic of Texas, and under the seal of said office, and be signed by the president of the Republic of Texas, and countersigned by the commissioner of the general land office.

Sec. 9. And be it further enacted, That no person appointed to an office, instituted by this act, or employed in any such office, shall directly or indirectly be concerned in the purchase of any right, or in trust for any other person, or in the name or right of any other person in trust for himself, nor shall take or receive any fee or emolument for negotiating or transacting the business of said office. And any person offending in the premises against the prohibition of this act, shall forfeit and pay one thousand dollars, and upon conviction shall be removed from office.

Sec. 10. And be it further enacted, That the commissioner of the general land office shall be appointed by the President, with the consent and advice of the Senate; and said commissioner of the general land office shall hold his office for three years, and shall be re-eligible. He shall receive an annual salary of three thousand dollars per annum, payable quarterly, out of any money in the treasury not otherwise appropriated. And the said commissioner shall have the privilege of sending and receiving letters and packages, and also final certificates, and patents of land, free of postage.

Sec. 11. And be it further enacted, That the commissioner of the general land office shall be authorized to employ a sufficient number of clerks, provided that their annual compensation shall not exceed in the whole two thousand dollars per annum; and the said compensation shall be paid out of any moneys in the treasury not otherwise appropriated.

Sec. 12. And be it further enacted, That there shall be established a land office, No. 1, at the house of George Wright, on Red river, for the district of Red river, which shall include all that country lying and situated within the following boundaries, viz: the line to begin at the mouth of the Sulphur fork of Red river, and run up that river to the crossing of the Tramel trace; thence on that trace to the Sabine river; thence up that river to its source; then due west to the Trinity river; thence up that river to its source; thence due north to Red river; thence down that river to the beginning. And a land office, No. 2, at San Augustine, for the counties of San Augustine, Jasper, Sabine, and Shelby. One other land office, No. 3, at Liberty, for the counties of Jefferson, Liberty, and Harrisburg. One other land office, No. 4, at

Nacogdoches, for all that section of country which lies north of Liberty and east of the Trinity, not included in any other land office district. One other land office, No. 5, composing the counties of Brazoria, Matagorda, and Jackson, to be located at the town of Matagorda. No. 6, composing the counties of Austine, Colorado, and Washington, to be located at the town of Washington. No. 7, composing the county of Milam, and all the country west of the Trinity, and east of Brazos, not included in any other land district. No. 8, composing the county of Mina, and all the country west of the Colorado river, north of the La Bahia road, and east of De Witt's colony, to be located at the town of Mina. No. 9, composing all that tract of country heretofore embraced in the colony of De Witt, to be located at the town of Gonzales. No. 10, also a land office, to be located at San Antonio de Bexar, for all that tract of country west of De Witt's, and north of Power's colony. No. 11, a land office to be located at the town of Victoria, for all that country west of the district of Matagorda, and south of Gonzales and Bexar.

Sec. 13. And be it further enacted, That the several surveyors general shall be appointed by the President, by and with the advice and consent of the Senate; shall be commissioned by the President; may continue in office three years, eligible to a re-appointment; shall reside at the land office for which he is appointed, whose duty it shall be to furnish such regulations and instructions to their deputies as may be furnished them from time to time by the commissioner of the general land office; shall administer oaths to the deputies as prescribed in the third section of this act, whose duty it shall be to examine the field notes and plats of all surveys which have been or may be made within the bounds of his authority, for the purpose of getting a patent for them, and see that they are correct; and shall certify the same on the same paper on which are the field notes; and shall carefully preserve in his office a copy of all said field notes and plats; and said surveyor general shall be entitled to charge persons presenting field notes and plats for his inspection, the following fees, viz: for every field note and plat of a survey which lies in a square or an oblong shape, one dollar; for every survey which has more than four lines, and less than eight, one dollar and fifty cents; over eight, and less than thirteen, two dollars; and for all which have more than twelve lines, the sum of three dollars. And on application of any individual, in person, to any one of the surveyors general, and producing sufficient testimony of proper qualifications, he shall be deputed by the said surveyor general to survey any where within the bounds of his authority, for which deputation the deputy shall pay the surveyor general the sum of three dollars.

Sec 14. And be it further enacted, That there shall be one register of public lands, and one receiver of public moneys for each district, to be appointed by the President, with the advice and consent of the Senate, for the term of three years, eligible to a re-appointment; and for misconduct in office may be suspended by the President; who shall hold their offices at such places as Congress may by law direct. And the receiver shall enter into bond, with good and sufficient security, to be

approved of and certified by the chief justice of the county court, payable to the President and his successors in office, in the sum of ten thousand dollars, which bond shall not become void on the recovery thereof, conditioned well and truly to pay all such sums or funds that may be paid to him on account of the public funds, to the Secretary of the Treasury, for the use of the republic; and said bond shall be filed in the office of the Secretary of the Treasury. A certified copy of said bond from under his hand and seal shall be evidence in any court having competent jurisdiction to recover judgment thereon, against such receiver of public moneys.

Sec. 15. And be it further enacted, That any person who is legally entitled to a grant of land of the government, either by citizenship, heirship, or purchase, may apply in person, or by a duly qualified representative or agent, and by producing legal and sufficient testimony of their claims to the register and receiver of land office for the district in which they may live, or if an heir or heirs, or assignee, the district in which died the testator, or last lived the assignor; and the said register and receiver is hereby authorized to grant to such person so applying an order of survey, directed to any legal authorized surveyor of the Republic of Texas, for the amount of land to which they are entitled, stating in the said order of survey at what time the said grantee emigrated to the country, or is a native, for which order of survey the grantee shall pay to the register and receiver, each, the sum of one dollar; and the said register shall record all of said orders in a book, and at the end of every month forward to the commissioner of the general land office a copy of the same. The said register shall also record in a book all powers of attorney, or any other instrument of writing connected with the grant of orders of survey, for which the applicant shall pay for recording twelve and a half cents for every hundred words, all of which instruments shall be forwarded also to the commissioner of the general land office monthly; provided always, that any person applying for land as a settler, and claiming his head right as such, shall be required to take and subscribe the following oath or affirmation before receiving an order of survey, such oath or affirmation to be made before any person legally authorized to administer the same: "I do solemnly swear, (or affirm,) that I was a resident citizen of Texas at the date of the declaration of independence; that I did not leave the country during the campaign of the spring of one thousand eight hundred and thirty-six to avoid a participation in the struggle; that I did not refuse to participate in the war; and that I did not aid or assist the enemy; that I have not previously received a title for my quantum of land; and that I conceive myself to be justly entitled under the constitution and laws to the quantity of land for which I now apply; provided, that widows, females, or orphans, shall be, and are hereby exempt from the duties required by this section.

Sec. 16. And be it further enacted, That all persons claiming land for military services, and having a certificate of the same, or any order of survey emanating from the proper authorities, may apply directly to

the deputy surveyor, and have his lands surveyed; and said deputy surveyors are hereby authorized to survey for any person having such certificates or orders of survey, conformably to these instructions; provided, that all persons holding such warrants, certificates, or orders of survey, shall first present them to the register of the district in which he resides, who shall record the same in a book to be kept for that purpose, and forward copies to the surveyor general.

Sec. 17. And be it further enacted, That all surveyors which have been, or may hereafter be made, agreeably to law in all respects, and certified by the surveyor general for the district in which the land lies, as required in the eleventh section of this law, shall be patented; and the owners thereof, by depositing the same in the land office for the district in which the land lies, and paying to the receiver of the same, in addition to the government fees, the following fees of office, shall, so soon as practicable, be furnished with a patent for said land or lands, viz: For a patent to a league and labor of land, five dollars; for a patent to a third of a league, four dollars; for a patent to twelve hundred and eighty acres, four dollars; for a patent to nine hundred and sixty acres, four dollars; for a patent to six hundred and forty acres, four dollars; for a patent to three hundred and twenty acres, three dollars for a patent to one labor of land, three dollars; all of which office fees shall be equally divided between the register and the receiver; and the several registers shall, upon the receipt in their offices of all field notes of surveys, made out in the manner above required, immediately making out in such form and manner as the commissioner of the general land office shall instruct him, duplicate blank patents for said land or lands, and forward the same to the commissioner of the general land office, who will immediately cause one of the duplicates to be executed as the law directs, and transmit it forthwith to the proper office; for the owner thereof; shall also reserve in the general land office the duplicates of grants, and cause the same also to be recorded in a well bound book, to be kept by him expressly for that purpose. And the said grantees shall pay, as government fees, the price as fixed by the colonization laws of Coahuila and Texas, in force at the time they emigrated to this country.

Sec. 18. And be it further enacted, That the price of surveying shall be three dollars for each Castillian lineal mile.

Sec. 19. And be it further enacted, That if any one of the officers who may be employed in the land office should fail or refuse to do his duty as required by law, he shall, upon conviction thereof, before any district court in this republic, forfeit and pay a penalty of any sum not exceeding one thousand dollars—one moiety to the republic, and the other to the party aggrieved; and any person so aggrieved may sue the offender in any such court in this republic.

Sec. 20. And be it further enacted, That the President be, and he is hereby, authorized to contract for the surveying, and cause to be surveyed, at the expense of this government, a sufficient quantity of lands to satisfy the holders of all land scrip that may have been, or which

may hereafter be, issued and sold by this government, agreeably to law in all respects; and the Secretary of the Treasury is hereby authorized to pay out of any moneys in the treasury not otherwise appropriated, all expenses which may accrue in the completion of said surveys.

Sec. 21. And be it further enacted, That whereas many persons have received titles under the colonization laws as colonists from the different commissioners of the country, and whereas many conditions were by the laws attached to said titles, that all such conditions be and are hereby cancelled, and the titles to all such lands be, and are hereby, ratified and confirmed; provided, that such persons shall pay, or cause to be paid, into the office of the receiver of the land office of the district where such land may be situated, or into the office of the Secretary of the Treasury, within six months after the opening of the land office, all money which may be due or owing on the same; provided, that the conditions of remaining in the country, and the provision prohibiting a sale to aliens, shall not be repealed by law: and further provided, that no title by this act shall be confirmed which was illegal or invalid ab initio: and be it further provided, that it shall not affect the rights of third persons: and further provided, this act shall not extend to the benefit on [of] any grantee or individual for a greater amount of land than one league, or one labor, or that granted to like citizens by the constitution of this republic.

Sec. 22. And be it further enacted, That no person shall, by virtue of an improvement, have a right to claim more than one league and labor of land, and that improvement shall consist in the clearing and fencing, in a farmer-like manner, at least four acres of land; and the privilege shall not extend to any person who has previously got a grant to the quota of land to which they are entitled by citizenship, nor to any person or persons entitled to a grant of land by purchase.

Sec. 23. And be it further enacted, That the several land offices shall open and go into operation on the first day of June next, and their operations will then be confined to the completing of land titles to all those who, by the existing and previous laws have acquired a preference to the first location: of this class are all citizens who were here on the day of the declaration of independence, and those volunteer soldiers who have served a tour of duty in the army of Texas previous to that time.

For these classes of claimants the land office shall be opened and remain six months in operation, granting and completing titles alone to that description of claimants; after which, all other legal claimants shall be entitled to have their land titles completed, as is herein provided for and directed.

Sec. 24. And be it further enacted, That every emigrant who arrives in this republic from and after the first day of January next, who is a free white person, and is the head of a family, and who shall actually reside within the government with his family, shall be entitled to a conditional grant for twelve hundred and eighty acres of land, by paying the fees of office and for surveying. The conditions of said grant shall be, that the grantee shall remain and reside here, and his or her family, both

within this government, and do and perform all the duties required of other like citizens for a term of three years; after which time and several acts, he or she shall have and receive an unconditional patent for said land; and in no case whatever shall a grant of that description be patented, unless it be satisfactorily proven that all the conditions of the grant have in fact and in good faith been complied with. And all single free white men, who may emigrate to the country after the first day of January next, shall be entitled to six hundred and forty acres of land, and so soon as they shall marry, they shall receive an additional quantity of six hundred and forty acres of land, upon the same conditions above named; and all laws contrary to the purview and meaning of this act are hereby repealed and declared null and void, so far as regards their future operation.

Sec. 25. And be it further enacted, That in case any survey shall cross the dividing line between any two countries, it shall be competent for the register, who issued the order of survey, to proceed in the same manner as though the land was wholly situated within his land district.

Sec. 26. And be it further enacted, That in case doubt should arise as to the boundary line of any land district, it shall be competent for the registers of the two land offices, concerning whose boundary the doubt exists, to determine the doubt, and agree upon the line between them, which shall be as valid in law as though the said line had been defined by act of this Congress; and in case they cannot agree, then and in that case the chief justice of the country court, whose office is situated nearest the said disputed line, shall decide.

Sec. 27. And be it further enacted, That the commissioner general of the land office furnish, at the public expense, such books and stationary as may be necessary for all the transactions of the several land offices.

Sec. 12. And be it further enacted, That if the President should deem it proper to do so, in consequence of an invasion or a threatened invasion of our country by an enemy, that he be and is hereby authorized, to issue his proclamation closing or suspending all operations of the several land offices; and further, that he be authorized, when he may think it proper to do so, to again, by proclamation open and authorize them to proceed to the execution of the duties of the several offices, as the law directs.

(Signed) IRA INGRAM,
Speaker of the House of Representatives.

(Signed) RICHARD ELLIS,
President pro tem. of the Senate.

Vetoed by the President, and passed by a constitutional majority of the House of Representatives, December 22d, 1836.

(Signed) IRA INGRAM,
Speaker of the House of Representatives.

Vetoed by the President, and passed by a constitutional majority of the Senate, December 22, 1836.

Signed, RICHARD ELLIS,
President pro tem. of the Senate.

Pages 263, 264, and 265 of the volume of the Laws of Texas.

An Act supplementary to an act, entitled "An act to establish a general land office for the Republic of Texas," passed December 22, 1836.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas in Congress assembled, That the land office as established by the act passed on the twenty-second day of December last, shall go into operation on the first day of October next, unless the country shall be invaded to an extent inducing the President to call out at least one-third of the militia for its defence; in which case the President shall have power to close the land office by proclamation, until such invasion has terminated.

Sec. 2. Be it further enacted, &c., That the whole Republic of Texas shall be sectionized, as follows: One base line and four meridian lines shall be run in such manner as the commissioner of the general land office shall direct; provided, that no locations or surveys heretofore made agreeably to law shall be affected by such sectionizing; and provided further, that these sectional lines shall not affect the previous or future surveys of land; but all lands surveyed for individuals or for the government, lying on water-courses, shall front one-half of the square on the water, the line running at right angles with the general course of the stream, and all others not on water-courses shall be square, if previous lines will permit, and if not, to be run as circumstances will permit.

Sec. 3. Be it further enacted, &c., That in all cases the registers and receivers of the land offices shall be furnished with written instructions by the commissioner of the general land office for their government.

Sec. 4. Be it further enacted, &c. That after the first day of October next no individual arriving in the country shall be entitled to land as an emigrant; and from this time forward no more bounty land shall be given as an inducement to any one to enter into service in the army of Texas.

Sec. 5. Be it further enacted, &c., That it is hereby declared, that all empresarios' contracts having ceased on the day of the declaration of independence, all the vacant lands of Texas are the property of this republic, and subject alone to the disposition of the government of the same.

Sec. 6. Be it further enacted, &c., That it is hereby made the duty of all empresarios, commissioners, political chiefs, alcades, and other persons, to deliver over to the commissioner of the general land office all titles, surveys, books, papers, documents, or other things in their possession or charge belonging to this republic, or which by this act is

made public property, and so contemplated, to be delivered over as aforesaid, which shall be delivered over as aforesaid on the application in person of said commissioner, or to his order in writing.

Sec. 7. Be it further enacted, &c., That should any empresario refuse to comply with the provisions of the foregoing section, he shall be liable to prosecution, and shall on conviction forfeit to the government of Texas all premium lands granted, or which he could claim by virtue of his said contract; and should any commissioner, political chief, alcalde, or other person, refuse to comply with the provisions of the foregoing section, he shall be liable to prosecution, and shall on conviction be fined in the penal sum of twenty thousand dollars; and he shall, moreover, be imprisoned until he deliver up said surveys, books, &c., as required by law: Provided, that all prosecutions under this act shall issue from, and be tried, at the seat of government of this republic.

Sec. 8. Be it further enacted, &c., That in order to settle the claims of empresarios, each and every one of the same are hereby authorized to institute a suit against the President of the Republic of Texas, and his successors in office; which suit or suits shall be tried in the country in which is situate the seat of government of the Republic of Texas, and shall be tried as all other land suits are required by law to be tried. And should any empresario, who shall thus sue, fail to establish the claim for which he sues, he shall pay all the costs of such suit: Provided, that neither aliens, nor the assignees of aliens, shall be entitled to the benefit of this act.

Sec. 9. Be it further enacted, &c., That it shall be the duty of the attorney general to attend to all such cases in behalf of the Republic of Texas, and he shall receive, as a compensation for his services, the sum of five hundred dollars in each and every case; and the President is authorized to employ such additional counsel as, in his opinion, he may deem proper, and allow him such compensation as he may deem proper: Provided, however, such compensation shall not exceed the compensation allowed the attorney general.

Sec. 10. Be it further enacted, &c., That it shall be the duty of the President to appoint, during the present session of Congress, all the officers contemplated by the land law passed on the twenty-second day of December last.

Sec. 11. Be it further enacted, &c., That it shall be the duty of the surveyor, upon returning the field notes of any survey, to certify, upon oath, that said survey was made either previous to the closing of the land office by the consultation, or subsequent to the opening of the land office by the present session of Congress, as the case may be, which shall also be certified by the chain carriers, if to be found in the republic, and if not, by at least two respectable witnesses.

Sec. 12. Be it further enacted, &c., That the Secretary of War shall, immediately from and after the passage of this act, issue to all persons entitled to bounty lands for military services in this republic, a certificate or certificates of the same, and shall keep a record in his office of all such certificates so issued by him, upon the applicant hav-

ing an honorable discharge, signed by the commanding officer of the company to which he was attached, and countersigned with certificates of at least one field officer or commandant of a post.

Sec. 13. Be it further enacted, &c., That it shall be the duty of the surveyor general of each land district to appoint not less than six deputy surveyors in his land district, and as many more as he may deem necessary, and shall assign to each deputy a certain portion of territory, in which no other surveyor shall be allowed to survey.

Sec. 14. Be it further enacted, &c., That each deputy surveyor shall, before entering on the duties of office, give a bond payable to the President of the Republic of Texas, and his successors in office, in the penal sum of ten thousand dollars, with at least two securities, to be approved of by the surveyor general, conditioned for the faithful performance of the duties of his office.

Signed, B. T. ARCHER,
Speaker of the House of Representatives.
Signed, JESSE GRIMES,
President pro tem. of the Senate.

Vetoed by the President, and passed by a constitutional majority of the House of Representatives, June 8, 1837.

Signed, B. F. ARCHER,
Speaker of the House of Representatives.

Vetoed by the President, and passed by a constitutional majority of the Senate, June 12th, 1837.

Signed, JESSE GRIMES,
President pro tem. of the Senate.

And under the agreement of the 3d of March, 1846, the note as made by the clerk in the case of Yates and McIntyre, was considered as made in this case, and is as follows:

The U. S. district attorney having objected to the volume purporting to be the Laws of Texas, on the ground that it was not proof, James Taylor was sworn in behalf of the petitioners, and testified in open court, which testimony was reduced to writing, and is contained in a certain document marked T, to wit:

YATES & MCINTYRE
vs.
THE UNITED STATES.

United States district court, district of Louisiana.

James Taylor being sworn on behalf of the petitioners, in open court, this 24th day of February, 1846, deposes:

That he is a lawyer by profession; lives at Natchitoches, in Louisiana; has gone the circuit in Texas, and practised law there a little. On looking into a volume now offered in evidence by the counsel for petitioners, as containing the laws of Texas, witness says he has no doubt that said volume is a correct copy of the laws of Texas—he is well satisfied that it is such.

Signed, L. E. SIMONDS, *Dep. clerk.*

And by the agreement of the 3d of March, 1846, an entry at page 91 of a volume entitled "Abstract of the Original Titles of Record in the General Land Office," printed in accordance with a resolution of the house of representatives, passed the 24 May, 1838, was offered in evidence by the counsel for the petitioners in the case of Yates & McIntyre, was offered in this case, and is as follows:

Names of grantees.	Date of titles.	Leagues.	Where situated.	Remarks.
Jaciento Mora -	Dec. 10, 1795	6	At a place called after Omegas, 25 leagues from Nacogdoches.	Certified copy.
Edward Murphy -	Aug. 20, 1798	-	One place on the La Nana, on the road from Nacogdoches to Natchitoches, about 7 leagues from the Sabine.	

And by the agreement of the 3d March, 1846, an act of the dissolution of the partnership of Edward Murphy, William Barr, Luther Smith, and Samuel Davenport, marked U, as offered in evidence by the counsel for the petitioners in the case of Yates & McIntyre, to which the following objections was made by the counsel for the respondent in that case, to wit: The United States district attorney objects to the introduction in evidence of document marked U, on the ground that it is a private instrument, but which objection was overruled by the court. Said act of dissolution is in the following words, viz:

This instrument of writing witnesseth, that the partnership in commerce, that has existed between Edward Murphy, William Barr, Luther Smith, and Samuel Davenport, since the year one thousand seven hundred and ninety-eight, is this day dissolved by mutual consent of all the partners, and the property belonging to said partnership, divided and disposed of in the following manner, viz., the house and plantation which Edward Murphy now lives on, with all the appurtenances thereunto belonging, is transferred to him, his heirs, and assigns forever, together with the tract adjoining it, which we purchased of Lewis Becard, the whole estimated at six thousand dollars; all the debts due to the partnership at Natchitoches, agreeable to the list of them furnished by him, to amount of nineteen thousand one hundred and forty-two dollars; four bills, and estimated to be worth twelve thousand dollars; for which sums, amounting to eighteen thousand dollars, the partnership has received full value, and do by these presents relinquish all claim, right, or title, to said property, or any part thereof, in *forever* of said Edward Murphy, his heirs and assigns, forever.

Also, the aforesaid partnership do cede to Luther Smith the two tracts of land belonging to the partnership, one lying on Thomson's creek, and the other on the fork between the river Comité and Amité, with all the debts due to [the] company, from the result of his sales of horses, &c., as appears by a list of them presented by him, to amount of two

thousand four hundred and ninety dollars, and two bills. which with the above mentioned tracts of land, he receives as his full share of all the profits arising from the business done by said partnership, relinquishing all claim to any other property owned by the said company, except what will be hereafter mentioned; also, the partners have sold him mules and horses, which are now at Avoyels and bayou Chicot, for the sum of seven thousand dollars, which he has satisfied the partnership for.

It is also agreed upon, that all the remaining property, debts, &c., except what will be hereafter specified, that belongs to the partnership, is transferred to Edward Murphy, William Barr, and Samuel Davenport, as their shares, out of which must be paid to Edward Murphy the sum of six thousand nine hundred and twenty-eight dollars, which is the balance due him of the whole sum the partnership was indebted to him.

It is also agreed on by the partners, that the tracts of land which belong to said concern, known by the name of La Nana tract, consisting of four leagues square, and the Ormigas tract of six leagues square, is not included in the separation of the property belonging to said partnership, as already specified, and continues to remain as belonging equally to said partners, their heirs and assigns, to be hereafter disposed of as they may agree upon, the titles of which remain in possession of William Barr and Samuel Davenport.

It is also agreed upon and understood by these presents, that the tract of land belonging to the partnership, known by the name of the Presideo Viexo, consisting of two leagues square, and lying on the river Angeline, about six leagues west of Nacogdoches, is by these presents ceded to W. Barr and Samuel Davenport, their heirs and assigns forever; the other two partners, Edward Murphy and Luther Smith, relinquishing all their right and claim to said tract of land, or any part thereof, in favor of said Samuel Davenport and Wm. Barr, their heirs and assigns, they having counted with said partnership for the full value thereof.

In testimony of which, the within named partners have thereunto set their hands and seals, at Natchitoches, this ninth day of October, one thousand eight hundred and six.

(Signed) E. MURPHY,
LUTHER SMITH,
SL. DAVENPORT,
WM. BARR,
By his attorney in fact, SL. DAVENPORT.

Signed and sealed, in presence of,
WM. MARP,
W. OWEN.

I hereby certify the above and foregoing, to be a true copy of the original, on file and of record in my office.

Given under my hand and official seal, at Natchitoches, this 18th day of February, A. D. 1845.

(Signed) C. E. GRENEAUX,
Parish Judge.

And under the above mentioned agreement, of the 3d of March, 1846, the petitioners offered in evidence the certified copies of certain letters contained in a certain document marked V, in the case of Yates & McIntyre, to wit: the letter of E. A. Brown, to the register of the land office at Opelousas; of J. Whitcomb, to the honorable Ogden Hoffman; of E. Hayward, to the honorable Cave Johnson; of E. Hayward, to S. M. Stillwell; of E. A. Brown, to W. K. Fuller; of J. Whitcomb, to the register and receiver at Natchitoches; of J. Whitcomb, to the register and receiver at Opelousas; of Patrick O. Lee, to J. Whitcomb; and the extract of a letter from J. M. Moore to S. D. King; and which letters are in the words following, to wit:

7th January, 1832.

SIR: I have to acknowledge the receipt of your letter of the 27th ultimo, respecting the claims of Samuel Davenport to several large tracts in the "neutral territory," and enclose herewith a copy of so much of the report of the board of commissioners for the western district of Louisiana, dated 4th of May, 1815, upon lands in the county of Natchitoches as relates to the claim of the mercantile firm of Edward Murphy and others, of which firm Mr. Davenport was one of the partners, no claim having been reported in the name of Mr. D. alone. The report of the register and receiver at Opelousas, under the act of Congress of the 3d of March, 1823, (Land laws, p 843,) upon claims in the neutral territory, having been printed by order of the House of Representatives on the 13th of January, 1826, as document No. 50, 1st session of the 19th Congress, I beg leave to refer you to No. 143, page 67; No. 180, page 81; No. 181, page 83; and No. 224, page 105 of that document, for their reports upon those claims, and to pages 3, 4, 5, 6, and 7, for the evidence they collected respecting the powers of the commandant at Nacogdoches to make grants of land. For the powers of the officers of Spain to dispose of the royal domain, I would also beg leave to refer you to the printed document No. 121, of the House of Representatives, 2d session of the 20th Congress, as containing all the information upon that subject in the possession of this office. I also enclose, for the information of the committee, a copy of so much of the commissioners' report, of the 4th of May, as relates to the claim of Joseph Piernas under Jacinto Mora, and which appears to me to be for the same tract as the one reported by the commissioners as No. 49, and by the register and receiver as No. 181, in the name of Murphy and others under Jacinto Mora.

With great respect, &c.,

E. HAYWOOD.

Hon. CAVE JOHNSON,
Ch. Com. Pr. Land Claims, Ho. of Reps.

GENERAL LAND OFFICE, *2nd May*, 1835.

SIR: The honorable Mr. Butler has referred to this office for an answer [to] your letter to him of the 15th ultimo, in relation to the claim of Davenport and others to a tract of six square leagues on the Sabine river, in the neutral territory, designated as No. 181 in the report of the

register and receiver at Opelousas, under the provisions of the acts of Congress of the 3d March, 1823, and 26th May, 1824.

In reply to your inquiry I have to state, that that claim has not been confirmed by Congress, it being included in the "first class" of that report; and I enclose herewith, for your information, an extract of so much of the report made to the House of Representatives, by Mr. Whipple, of the Committee on Public Lands, as states the objections to all the claims embraced in that class, and which contains all the information in relation thereto which it is in my power to furnish.

With, &c.,

ELIJAH HAYWARD.

SILAS M. STILLWELL, Esq.,
City of New York.

GENERAL LAND OFFICE, 11*th May*, 1836.

SIR: Henry Yates, esq., of the city of New York, having informed this office, through the honorable Mr. Fuller, that he is owner of part of the lands claimed by Samuel Davenport and others, entered as claims numbers 180 and 181, in the report of the register and receiver upon claims between the Rio Hondo and Sabine, and that he has been advised that sales of portions of the lands within those claims have been made at your office, I have not been able, in consequence of the lines of those claims not being represented upon the plats in this office, to ascertain what sales, if any, have been made interfering with those claims, and have, therefore, to request that you forthwith advise this office of the positions of those claims with reference to the lines of the public surveys, so far as they can be ascertained from the papers and records in your office, and such other unquestionable evidence upon those points as may be accessible to you, and furnish me with a list of all sales which may have been made within such lines. These claims having been duly filed, for the purpose of examination, with the land officers, are not subject to entry; and if you have not already done it, you are directed to mark them, as accurately as possible, upon the maps, to prevent any interfering sales hereafter. Very, &c.,

ETHAN A. BROWN.

The REGISTER *of the land office,*
at Opelousas, Louisiana.

GENERAL LAND OFFICE, 11*th May*, 1836.

SIR: I have the honor to return the letter of Mr. Yates, left by you at this office, stating that he had been informed that a part of the land included in the claims of Davenport and others, designated as Nos. 180 and 181 in the report of the land officers at Opelousas, upon claims between the Rio Hondo and Sabine, had been sold by those officers; and, as owner of a part of each of those claims, protesting against such sales. As the claims in question are not laid down upon the official plat of survey returned to this office, it is not in my power to say whether the information received by Mr. Yates is correct or not, and I have, there-

fore, written to the register at Opelousas upon the subject, and herewith enclose, for your information, a copy of my letter of this date to him, requesting a report of the facts, and cautioning him from making any sales within the limits of those claims, so far as they can be ascertained. So soon as the required report is received, you shall be further advised upon the subject. I am, &c.,

ETHAN A. BROWN.

Hon. W. K. FULLER,
House of Representatives.

GENERAL LAND OFFICE, *January 8th*, 1839.

GENTLEMEN: I enclose herewith a copy of a communication of the 5th inst., from the honorable Og. Hoffman, relative to certain claims entered in the first class of the report of the 1st November, 1824, of the register and receiver at Opelousas, as Nos. 180 and 181, in the names of Samuel Davenport and others; claims of this description, as you are apprised, should be excluded from sale

In relation to the two claims above mentioned, which it is believed are now within your district, a letter, dated 11th May, 1836, a copy of which is also enclosed, was addressed by my predecessor to the register and receiver at Opelousas, in order to ascertain the positions of those claims with reference to the lines of the public surveys, so far as they can be ascertained from the papers and records in "their office," and such other unquestionable evidence upon these points as might be accessible to them, and with a view of procuring, at the same time, "a list of all sales which may have been made within the lines of the claims referred to."

By that letter those officers were advised that these claims are not subject to entry, and they were directed, in case they had not already done so, to mark them as accurately as possible upon the maps, to prevent any interfering sales hereafter. To that letter no reply appears to have been received. The object of this communication is to request that you will furnish me a list of any and all sales that may have been made of tracts within the limits of the said claims, and also to request a strict compliance on your part of the other requisitions of that letter. I have also written to the officers at Opelousas to furnish you immediately with all the information in their power, in relation to the position, &c., of the said claims.

Very respectfully, your obedient servant,
JAS. WHITCOMB, *Commissioner*.

Register and receiver, Natchitoches, Louisiana.

GENERAL LAND OFFICE, *January 8th*, 1839.

GENTLEMEN: In relation to claims of Samuel Davenport and others, entered as No. 180 and 181, in the report of the register and receiver on claims between the Rio Hondo and the Sabine river, a letter dated 11th May, 1836, was addressed to your office by my predecessor, to which no reply appears to have been received. A copy of that letter is enclosed, and as the said claims are believed to be now within the lim-

its of the northwestern district, I request that you will immediately furnish the officers at Natchitoches with all the information in your power as respects the positions, &c., of the said claims, so as to enable them fully to respond to the *ac*quirements of the enclosed.

Very respectfully, your obd't servant,

JAS. WHITCOMB, *Commissioner*.

Register and receiver, Opelousas, Louisiana.

GENERAL LAND OFFICE, *April 8th*, 1839.

SIR: On the 8th January last I had the honor to acknowledge the receipt of yours of the 5th of that month, accompanied by a copy of a letter from A. McIntyre, esq., of Albany, respecting certain claims in the names of Samuel Davenport and others, and to inform you that with a view of ascertaining the positions of these claims as respects the public surveys, and also of ascertaining whether any, and if so, what portion of them had been sold, I would write to the proper district officers in Louisiana. I have now to advise you that, in reply to a letter written by me, I have received a communication dated the 28th February last, from the register of the northwestern land district of Louisiana, furnishing information desired, by giving a description of the tracts (a list of which is annexed) that had been sold within the limits of these claims, and representing that the said claims had been suspended from sale, &c.

Very respectfully, your obedient servant,

JAS. WHITCOMB, *Com'r*.

Hon. OGDEN HOFFMAN, *New York*.

Entries at Natchitoches.

In T. 7, R. 11 W., the E. $\frac{1}{2}$ of the S E. qr. of S. 12, the S. W. qr. of S. 13, and the N. W. qr. of sec. 36, same township.

The entries which appear on the township maps made at Opelousas, are as follows:

In T. 6, R. 12 W., the S. E. qr. of sec. 14 only. In T. 7, R. 11 W., the S. W. qr. of sec. 1; the W. $\frac{1}{2}$ of the N. E. $\frac{1}{4}$, the E. $\frac{1}{2}$ of the N. W. qr. and the S. E. qr. sec. 12. The S. E. qr. of sec. 26, and the S. $\frac{1}{2}$ of the W. $\frac{1}{2}$ of the N. E. qr. of sec. 28.

NORTHWESTERN LAND OFFICE, *28th February*, 1839.

To JAMES WHITCOMB, ESQ.,

Commissioner of the General Land Office.

SIR: In compliance with your request of the 8th ultimo, herewith enclosed, are copies of a connection of the lines of the original surveys of the claims of Samuel Davenport and others, report Nos. 180 and 181, with the lines of the public surveys as connected by G. S. Walmsley, U. States deputy surveyor, at the request of the claimants; the whole of which, as represented on said maps, have been suspended from sale. The entries permitted in this office, previous to a knowledge of the locality of these claims, are as follows, viz:

In T. 7, R. 11 W., the E. ½ of the S. E. qr. of S. R. The S. W. qr. of S. 13, and the N. W. qr. of sec. 36, same township.

The entries which appear on the township maps, made at Opelousas, are as follows:

In T. 7, R. 11 W.; the S. W. qr. of sec. 1; the W. ½ of the N. E. qr., the E. ½ of the N. W. qr., and the S. E. qr. sec. 12, the S. E. qr. of sec. 26, and the S. ½ of the W. ½ of the N. E. qr. of sec. 28. In T. 6, R. 12 W., the S. E. qr. of sec. 14 only.

There are other claims similarly situated, the sale of which has been suspended; when their precise location is known, will be forwarded. Urgent necessity requires my presence at New Orleans for a few days. I hope it will not be considered improper; the throng of business is nearly over.

I have the honor to be, very respectfully, your obd't serv't.

PATRICK O. LEE, *Register*.

Extract of a letter from John M. Moore, esq., acting commissioner of the General Land Office, to Samuel D. King, dated September 18th, 1844.

SIR: In reference to your inquiry respecting the issuing of patents for the claims referred to, Opelousas patent certificates, Nos. 618, 747, and 748, I have to inform you that, on examination, I find the state of these cases to be as follows:

1st. The settlement claim of Ramond Dailey for 640 acres, is entered as No. 198, in the Rio Hondo reports, dated Nov. 1st, 1824, (American St. Papers, Public Lands, Vol. 4, p. 63, printed by D. Green,) and is confirmed by the act of Congress, approved 24th May, 1828, (Acts 1828, p. 114,) entitled "an act to confirm claims to lands in the district between the Rio Hondo and Sabine river, founded on habitation and cultivation. The 2nd section of the act provides that the confirmation by said act "shall not be construed to extend further than to a relinquishment of title on the part of the United States," and requires the claims confirmed thereby to be located under the direction of the Register and Receiver, in conformity with legal subdivisions," and to include the improvement of the claimants respectively. Section 14, containing 639 $\frac{36}{100}$ acres, T. 7 N., R. 11 west, Louisiana, has been designated as the location of the said claim. This location falls within the limits of the unconfirmed claim of Samuel Davenport and others, known as the "La Nana" tract, entered as No. 180, in the 1st class of the said Rio Hondo reports, as claimed in virtue of a grant approved and signed by the commandant of the post of Nacogdoches, 4th August, 1798, same vol., State Papers, page 60.

For said section there has been transmitted to this office by E. A. Seaton, esq., a plat, also a transcript of a deed, dated 21st December, 1833, from Raimond Daily to John H. Thompson, for said section; also, on the same sheet, a transfer, dated 11th April, 1843, from said John H. to George W. Thompson, acknowledged before Guy H. Bell, without a certificate of his official character. There has been received

at this office from G. W. Thompson also a transcript of a deed, dated 24th May, 1841, from said John H. to George W. Thompson, for said section; and a patent is applied for in favor of said George W. Thompson, as assignee of John H. Thompson under Raimond Dailey. In reference to this application, I have to state, that I have not been able to find any evidence of the return to this office of patent certificate No. 618, which appears was issued September 22d, 1832, by the register at Opelousas, in this case; but that, if the certificate were on file, I would not feel authorized in issuing a patent in the case, in view of the fact that the confirmatory act is silent as to the issuing of patents for the claims confirmed thereby; and the late Secretary of the Treasury, Mr. Spencer, referring to authority for issuing of a patent, decided as follows: "Such authority is in all cases given in express terms by some statute; without it, the Executive cannot issue one." It is proper also to state, that under the general practice of this office, patents for private claims in Louisiana issue to the confirmee, or his legal representatives, thus—"A. B., or his legal representative"—leaving the claimants to hold under the patent and such evidence of the conveyance as they may possess from the confirmee.

In view of the facts stated in the foregoing, and of the decision adverted to, you will perceive that it is not now in my power to issue the patent.

GENERAL LAND OFFICE.

I, James Shields, Commissioner of the General Land Office, do hereby certify, that the foregoing, on pages 1, 2, 3, 4, 5, 6, and 7, are true copies from the records in this office; that the copy on page 8 is a true copy from a letter on file in this office; and that the extract on pages 9 and 10 is a true extract from the records of this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of the said office to be affixed, at the city of [L. S.] Washington, this fourteenth day of July, one thousand eight hundred and forty-five.

JAS. SHIELDS, *Commissioner*.

And under the agreement of the 3d of March, 1846, there was offered in evidence in this case, "A list of Rio Hondo claims and entries, embraced within that portion of the Las Ormigas and La Nana grants reported under Nos. 180 and 181, owned by Archibald McIntyre and Henry Yates," which was offered in the case of Yates & McIntyre, found in document E of that case, and in the words and figures following:

[*Document marked "E."*]

A LIST of Rio Hondo claims and entries, embraced within the limits of that portion of the Las Ormigas and La Nana grants (reported under Nos. 180 and 181) owned by Archibald McIntyre and Henry Yates.

Rio Hondo claims. (Las Ormigas.) Entries.

Name of confirmee.	No. of report.	Part of sections.	No. of T.	No. of R.	Quantity. Acres.	Quantity. 100ths.	No. of R. Receipt.	Name of purchaser.	Part of section.	No. of section.	No. of T.	No. of R.	Quantity. Acres.	Quantity. 100ths.
John Litton -	114	N. ½ of 21 & W. ½ of 22	9	12	640	00								
Asa Backum	115	E. ½ of 22 & S. ½ of 15	9	12	640	00								
					La Nana.									
							524	Alanson Barr - -	SW. ¼ of NE. ¼	28	7	11	40	06
							1178	Wm. Jefferson Elam	E. ½ of SW. ¼	17	6	11	79	91
							1172	Henry Hall - -	E. ½ of NE. ¼ & NW. ¼ of NE. ¼	18	6	11	119	87
							523	Henry Hall - -	SW. ¼ of NE. ¼	18	6	11	39	95
							522	James Strickland -	NW. ¼ of NW. ¼	18	6	11	39	95
							1173	James Strickland	E. ½ of NW. ¼ & SW. ¼ of NW. ¼	18	6	11	119	87

Northwestern land office, *Natchitoches, La.*, 17*th February*, 1845.

NORTHWESTERN LAND OFFICE,
Natchitoches, La., 17th February, 1845.

I do hereby certify the foregoing to be a true and correct representation of the Rio Hondo claims and entries within the limits of the McIntyre & Yates interest in the grants above specified, according to the records of the office.

Given under my hand and seal of office, the day and date above [SEAL.] written.

(Signed) WM. T. WALMSLEY,
Register.

And under the agreement of the 3d day of March, 1846, there was received in evidence in this case the following evidence and agreement of counsel found in the case of Yates & McIntyre, in the words following, to wit: "The counsel for petitioners offered in evidence, a certified copy of the evidence taken by the register and receiver as commissioners, being the same which is reported in the American State Papers and already in evidence in this cause."

Agreement of counsel.

It is now agreed between the counsel for the petitioners and for the respondents, that the written testimony be dispensed with, and that said printed testimony be received.

And under the agreement of the 3d of March, 1846, there were received in evidence in this case, certified copies from the land office at Opelousas, of the notices of claimants and of the reports of register and receiver contained in document marked W, in the case of Yates & McIntyre, and which are in the words and figures following, to wit:

LAND DISTRICT, *south of the Red river*.

Pursuant to an act providing for the execution of the titles to lands in that part of the State of Louisiana situated between the Rio Hondo and Sabine river, approved March 3d, 1823, Samuel Davenport, the heirs and legal representatives of Edward Murphy, (all of the parish of Natchitoches;) the heirs and legal representatives of Luther Smith, of the State of New York; and the heirs and legal representatives of William Barr, of the State of Pennsylvania, give notice to the register and receiver that they claim a tract of land situate on the east margin of the Sabine, lying at a place called "Las Ormigas," having such marks and boundaries as is represented in a plat of survey made by Wm. McLester, deputy surveyor of the United States lands, and containing six leagues square, equal to 207,360 American acres, and being with the district of country previous to the late treaty between the U. States and Spain, called the Neutral territory.

Claimed by virtue of a concession and other proceedings, signed and approved by Bernard Fernandez, lieut. governor of the jurisdiction of Nacogdoches, dated 15th of December, 1795, in favor of Jacinto Mora, which land said Jacinto Mora by sale under authentic act, dated 22d July,

1805, transferred to Wm. Barr & Co., a firm composed of said William Barr, now dec'd, the said Samuel Davenport, the said Edward Murphy, now dec'd, and the said Luther Smith, now deceased.

S. DAVENPORT,
For himself and co-claimants.

LAND OFFICE, OPELOUSAS, LA.,
May 26th, 1845.

I, Peter L. Hebrard, register of the land office aforesaid, and in charge of the archives thereof, do hereby certify, that the foregoing is a true and correct copy of the original notice filed by said Samuel Davenport for himself and co-claimants, in the claim of said Samuel Davenport, William Barr, Edward Murphy, and Luther Smith, to the "Las Ormigas" tract, and in report No. 180 of the register and receiver at Opelousas, dated 1st November, 1824. And that the said original notice is now on file and of record in my office.

In testimony whereof I have hereunto set my hand and private seal of office, on the day, month, and year above written.
[L. S.]

P. HEBRARD, *Register*.

No. 178.—The heirs and legal representatives of Samuel Davenport, Luther Smith, and Wm. Barr, claim four leagues of land situated in the east of the river Sabine, on the public road leading from the town of Natchitoches to Gaines' Ferry on said river, at a place called Nana, (mother.) This claim is founded on a concession made by Don Jose M. Guadiana, commandant of the post of Nacogdoches, Texas, dated August 4, 1798, to Edward Murphy, and conveyed by act of sale on the 3d November, 1798, to Wm. Barr & Co., a commercial partnership there existing, whose members were Samuel Davenport, Edward Murphy, Luther Smith, and Wm. Barr. This claim was reported on by the register and receiver on the 1st November, 1824, under the number 180, and recommended for confirmation, to which the claimants refer, and to the 3d Vol. of American State Papers, (Seaton & Gales, page 85, No. 46,) which furnishes all the evidence on this claim.

LAND OFFICE, OPELOUSAS, LA.,
March 19th, 1845.

I do hereby certify, that the foregoing is a true and correct copy of the original report of the register and receiver of this land office, upon the claim numbered in the report of the said officers of the 30th of May and 1st of June, 1840, as number 178. And further, I do certify, that the original papers filed in support of the claims embraced in said reports have been sent to Washington, and have not yet been returned to this office.

In testimony whereof I have hereunto set my hand and private seal of office, on the date above written.
[L. S.]

P. HEBRARD, *Register*.

LAND DISTRICT, *South of Red river*.

Pursuant to "an act providing for the execution of the titles to land in that part of the State of Louisiana situated between the Rio Hondo and the Sabine rivers," approved March 3d, 1823, Samuel Davenport, the heirs and representatives of Edward Murphy, all of the parish of Natchitoches; the heirs and representatives of Luther Smith, of the State of New York; and the heirs and representatives of William Barr, of the State of Pennsylvania, give notice to the register and receiver that they claim a tract of land lying east of the Sabine river, on the public road from Natchitoches to Gaines' ferry on said river, at a place called "La Nana," having for its centre the prairie which joins the bayou of said La Nana, to extend two leagues towards each cardinal point, so as to form a perfect square of four leagues on each front line, the centre to be said prairie, and lying and being within the district of country previous to the treaty between the United States and Spain called the Neutral territory; claimed by virtue of a grant, and other proceedings, approved and signed by Dn. Jose M. Guadiana, commandant of the post of Natchitoches, the 4th of August, 1798, in favor of said Edward Murphy, now deceased; which tract of land was, on the 3d of November, 1798, by the grantee conveyed to the commercial partnership then existing between himself, said Murphy, said Samuel Davenport, said Luther Smith, now deceased, and said William Barr, now deceased.

S. DAVENPORT,
For himself and Co-claimants.

LAND OFFICE, OPELOUSAS, LA.,
May 26th, 1845.

I, Peter L. Hebrard, register of the land office aforesaid, and in charge of the archives thereof, do hereby certify, that the foregoing is a true and correct copy of the original notice filed by said Samuel Davenport, for himself and co-claimants, in the claim of said Samuel Davenport, Wm. Barr, Edward Murphy, and Luther Smith, to the La Nana tract, and in report No. 180 of the register and receiver at Opelousas, dated 1st November, 1824; and that the said original notice is now on file and of record in this office.

In testimony whereof I have hereunto set my hand and private seal of office on the day, month, and year above written.

[L. S.]

P. HEBRARD, *Register*.

No. 179. The heirs and legal representatives of Samuel Davenport, Luther Smith, and Wm. Barr, claim a tract of land lying in the late Neutral territory, situate on the east margin of the river Sabine, containing six square leagues, at a place called "Las Ormegas," claimed by virtue of a concession granted Dec. 15th, 1795, to Jacinto Mora, and by him conveyed to the claimants; said concession having been made to said Mora by Bernardo Fernandez, lieutenant governor of Nacogdoches. This claim was reported on the 1st November, 1824, by the register and receiver, and recommended for confirmation under the num-

ber 181, to which the claimants refer, and also to the American State Papers, Seaton and Gales, 3d vol. page 80, No. 49, which furnishes all the evidence in this claim.

LAND OFFICE, OPELOUSAS, LA.,
March 19th, 1845.

I do hereby certify, that the foregoing is a true copy of the report, No. 179, embraced in the reports of the register and receiver, of 30th May and 6th June, 1840; and I do further certify, that the original papers filed in support of the claims embraced in said reports have been sent to Washington, and have not yet been returned to this office.

In testimony whereof I have hereunto set my hand and private seal of office, on the day, month, and year above witten.

[L. S.] (Signed,) P. HEBRARD, *Register*.

And under the above mentioned agreement of the 3d of March, 1846, the petitioners offered in evidence a certain letter from Herrera to Col. Thomas Cushing, dated August 6th, 1806, in the 2d vol. of American State Papers, title Foreign Relations, p. 801, as offered in the case of Yates and McIntyre, which letter is in the words and figures following, to wit:

PLANTATION OF MR. PRUDHOMME,
Aug. 6th, 1806.

SIR: With all possible respect I answer your excellency's letter, which was delivered to me at this place by Moses Porter, major of artillery of the United States.

It is true that I have crossed the Sabine river with a detachment of troops belonging to the King, with orders from the captain general, (by whom I am governed,) to keep this territory from all hostile attempts, as belonging, from time immemorial, to the King, and which is a dependence of the province of Texas. The inhabitants still acknowledge obedience to our government, notwithstanding the violence committed on a small detachment of our troops by those of the United States.

From this moment I hold myself responsible to the real letter of the orders that govern me, which are, by no pretext whatsoever, to interrupt or break the good intelligence which subsists between his Majesty and the United States; but I cannot permit, without violating my duty, any usurpation upon the land he possesses. If your excellency makes any infringement, you alone will be answerable to the two courts, and may interrupt the amicable convention, perhaps now on foot, but of which I have no knowledge. I did not send a translation of this in French or English, not having any person capable of translating with purity a thing of so serious a nature.

I felicitate myself of this opportunity in offering my best services. Your very humble servant,

SIMON DE HERRERA.

Señor Don THOMAS CHUSING,
Commander of a detachment of the
Army of the United States.

And under the above mentioned agreement of the 3d of March, 1846, the following admission made by the counsel of the respondents in the case of Yates and McIntyre vs. the United States, was also made in this case, to wit:

It is admitted by counsel for respondents, that the present parish of Sabine is a portion of, and has been erected out of, the original parish of Natchitoches.

And under the above mentioned agreement of the 3d of March, 1846, the commissioner's report in 1825, vol. 4, American State Papers, title Public Lands, p. 75, No. 82, in the tabular statement claim of Lafite, as offered in evidence by the counsel for petitioners, in the case of Yates and McIntyre, was offered in evidence in this case, and is as follows:

Second Class.

No.	Name of claimant, nature of title, and by whom issued.	Titles, when issued.	Titles, to whom issued.	Date of transfer, person transferring, and to whom.	Extent.	Quantity
82	Pierre Lafitte, conditional grant, by commandant of Nacogdoches.	June 12, 1784	Claimant -	- - -	Special	11,393.89

And under the above mentioned agreement of the 3d of March, 1846, the page 46, No. 82, in vol. 4, American State Papers, title Public Lands, as offered by the counsel of petitioners in the case of Yates and McIntyre vs. The United States, was offered in evidence in this case, and is as follows:

82. Pierre Laffitt, in the parish of Natchitoches, filed his notice, claiming, by virtue of grant signed by the lieutenant governor of Nacogdoches, bearing date June 12th, 1784, in favor of Pierre and Babtiste Laffitt, and by virtue of occupation, inhabitation, and cultivation for more than thirty years, a tract of land lying within the late Neutral territory, and situated between the bayou Nadier to that named Nabaucha, (the first now called bayou Pierre, and the last Nauticole,) containing 11,393.89 acres, agreeably to a plat of survey drawn by John Dinsmore, deputy surveyor of the United States, dated 6th September, 1823. The claim is supported by the original grant filed with the notice, of which the following is a translation:

Don Antonio Gil y Barvo, captain of militia, and lieutenant governor, military and political, of the town of Nacogdoches, and its jurisdiction, in consequence of the prayer of Pierre and Baptiste Laffitte, inhabitants of this jurisdiction of Texas, with the approbation of their father, Paul Bouett Laffit, inhabitant of said province, and residing for many years in the place called the bayou Pierre, the route which strangers pass through with merchandise for the Indian trade, and to furnish

nations at war with this province; that they may be granted lands in said place, with the necessary extension for the pasturing and breeding of cattle and horses of every description, obliging themselves, with the commission of the superior authority, to guard, watch, and impede strangers from passing without a legal passport from the territorial magistrate of said province. In virtue of which, and in consideration of the above, and being well informed of the good conduct of the petitioners, I have agreed on giving them possession of the said place, and the lands they solicit, charging them to proceed in a legal manner as regards their undertaking.

Signed at Nacogdoches, this 12th June, 1784.

Signed, ANTONIO GIL Y BARRO.

Let it be well understood that said concession of land is granted from the bayou that is named Nadier to that named Nabaucha, for the pasturing of their stock, which grant I hope will meet the approbation of the governor of this province. In testimony, &c.

GIL Y BARVO.

The following testimony, taken before the board, was also filed:

Andre Valentine and François Prudhomme, being severally sworn, say, that they know the land claimed by Pierre Laffitt in his above notice; that said land is lying and situate as is therein described; that said land was *was* occupied, inhabited, and cultivated more than thirty years since by Pierre Laffitt, the grantee, who then had his cattle and family thereon; and that said land has been constantly and uninterruptedly inhabited, and cultivated, and occupied by the claimant since, to the present day.

The extent of land here claimed is less than a moiety of the whole conceded.

The document relied upon was merely a permission to settle, requiring the approbation of the governor to make the alienation complete. By what act or form this approval was expressed, we know not; it may have been by a general confirmatory act, embracing permission for preceding years, and made at each visit to the jurisdictions under his government; it may have been usual to express it by his paraph in the margin of the original record; or it is possible the superior sanction may have been implied from his total silence on the subject. In either case, considering the length of time the claimant has been in possession, joined to the fact proven by certain answers preceding this report, that the records of Nacogdoches had been forcibly carried off, and were no longer to be found, we think that proof of the fact of approval ought not now to be required of the claimant.

We think this claim would have been considered valid under the government from which it emanated, and are therefore of opinion it ought to be confirmed; and have, accordingly, in the abstract, classed it with claims of the "second class."

And under the above mentioned agreement of the 3d of March, 1846, the act of Congress of July 6th, 1846, page 45, as offered in evidence

by counsel for petitioners in the case of Yates and McIntyre, was offered in evidence in this case, and is as follows:

Certain claims to land in the district south of the Red river, mentioned in the reports of the register and receiver at Opelousas, confirmed.

Sec. 7. And be it further enacted, That the claims to land within the district south of Red river, being numbers thirty-three, thirty-five, forty-five, fifty-two, seventy-seven, seventy-nine, eighty-seven, ninety-three, one hundred, one hundred and two, one hundred and three, one hundred and eight, one hundred and twenty-two, one hundred and thirty-two, one hundred and forty-two, one hundred and forty-seven, one hundred and forty-eight, one hundred and fifty-one, one hundred and fifty-two, one hundred and fifty-seven, one hundred and fifty-nine, one hundred and sixty, one hundred and sixty-two, one hundred and sixty-three, one hundred and sixty-four, one hundred and sixty-five, and one hundred and sixty-six, of the reports of the register and receiver of the land office at Opelousas, dated the thirteenth May and sixth June, eighteen hundred and forty, made under the provisions of the act of eighteen hundred and thirty-five aforesaid, be, and the same are hereby confirmed.

Proviso.

Provided, That the commissioner of the general land office shall cause a further investigation to be made, and further evidence to be taken, in relation to claim number one hundred and sixty-one of said report; and should it appear that the original claimants actually inhabited and cultivated the lands claimed on and prior to the twenty-second day of February, eighteen hundred and nineteen, then, and in that case, the same shall be confirmed, by and with the approval of the Secretary of the Treasury.

Other claims, mentioned in said reports, confirmed.

Sec. 8. And be it further enacted, That the following claims in the the said reports of the register and receiver of the land office at Opelousas, be, and the same are hereby confirmed, as follows, to wit, number twenty-nine, to the legal representatives of Joseph Marituarus; number forty-six, to the extent contained in a league square; number forty-nine, for six hundred and forty acres, to the legal representatives of Bernard Lacroix; number fifty-four, to the legal representatives of J. Baptiste Vallery; number seventy-eight, for six hundred and forty acres, to Onezine Guedry, assignee of Nicholas Provost; and six hundred and forty acres to the heirs and legal representatives of Daniel Guedry and Jean Mouton, senior; number ninety-one, for so much as will, with the quantity heretofore confirmed, make the quantity of one league front, by the depth of forty arpens; number ninety-nine, for six hundred and forty acres, to embrace the residence and improvements of Hugh Mulhollam, on and previous to the twentieth day of December, eighteen hundred and three; number one hundred and fourteen, to the legal representatives of Andre

Dumas; number one hundred and fifty-four, to the legal representatives of Antonio Mora; number one hundred and fifty-eight, to the legal representatives of Louis Frizzini; number one hundred and sixty-seven, to Jacob Wallace, or his legal representatives.

Certain provisions of the two preceding sections not to extend to lands held under certain French or Spanish grants, &c.

Sec. 9. And be it further enacted, That the provisions of two preceding sections of this act, which confirm donation claims situate in that part of said land district known as the "Neutral territory," shall not be regarded as extending to any lands which are held by any person by virtue of any bona fide French or Spanish grant, warrant, or order of survey, made prior to the twentieth of December, eighteen hundred and three, heretofore filed, according to law, with any register or commissioners, or register and receiver of said district.

Proviso.

Provided, That the confirmations, made by virtue of the two preceding sections, shall only operate as a relinquishment of the right of the United States, and shall not affect the right of third persons, nor preclude a judicial decision between private claimants for the same land; and, on the presentation to the Commissioner of the General Land Office of a plat of survey, duly approved by the surveyor general of Louisiana, the claimant shall be entitled to a patent.

APPROVED, *July 6th*, 1842.

And under the agreement of the 3d of March, 1846, the testimony of James Bludworth and Henry A. Bullard, as offered in evidence in the case of Yates and McIntyre, by the counsel for the petitioners, was offered in evidence in this case, and is as follows, to wit:

United States district court, district of Louisiana.

WEDNESDAY, *February 25th*, 1846.

Present, honorable Theo. H. McCaleb.

Testimony of James Bludworth, taken in open court.

James Bludworth, being duly sworn in open court, deposes: That he is about 66 years old. Has resided in Louisiana nearly 42 years; now resides 3 or 4 miles from Natchitoches, Louisiana, and has resided near that town ever since 1804, at which time witness first came into the country. Witness was a lieutenant in the U. States service under Capt. Edward D. Turner. Capt. Turner acted as civil and military commandant at Natchitoches; passed deeds, &c.

Witness had command of Fort Claiborne (which was at Natchitoches) for 3 or 4 months, in consequence of Capt. Turner's being absent during that time. While thus in command, witness exercised all the powers that Capt. Turner exercised when present. In the years 1804, '5, and '6, the Rio Hundo was considered the eastern boundary of Texas. Witness never heard of any other boundary, either before or since. The

Spaniards had a camp at Adayas, 6 or 7 miles west of the Rio Hundo. They patroled in 1805 and '6 from said camp to the Arroyo Hondo. A sergeant's guard was kept at the Arroyo Hundo part of the time. The guard were there in 1805, and continued till Governor Herrera and Cordera came on, in the latter part of 1806, with a large force, said to amount to 2 or 3,000 men. Witness never saw said force. He never knew civil or military process executed by United States officers west of the Rio Hondo.

In 1805, a Spanish bishop, from Mexico, or from the interior, came on with about 60 soldiers; Capt. Turner requested him to stop his military force at Rio Hondo, and not to bring it into the United States. The force was accordingly left at the Rio Hundo till the bishop returned. Witness always understood that that line was acquiesced in by all parties. Does not know the name of the bishop. Was acquainted with Davenport, Barr, and Smith. Heard often of the La Nana and Ormigas grants. Knew not much of them. Once copied for Davenport a survey of the La Nana tract. Does not know the name of the person who surveyed it. Thinks it likely it was Rumsdale, as he lived with Murphy. Coleman and Lester were surveying about there at that time. Barr, Davenport, and Smith were men of high standing; were in high favor with the Spanish government, and had contracts with the Spanish permitting them to trade with the Indians. These lands lay northwest of Rio Hundo, in what was called Texas. The Ormigas lay higher up, on the Sabine; it was 15 miles from the centre of La Nana tract to the Sabine; the old field of La Nana lay on the eastern side of La Nana creek. Witness was not on La Nana till 1811; was on Ormigas about 10 years ago. There has been stock on Ormigas since 1812.

The claims to Ormigas and La Nana were considered good; never heard their genuineness questioned. They were considered in 1804, when witness went there, to belong to Barr, Davenport, Murphy, and Smith. These tracts were occupied by persons who held under Davenport, Barr, and Smith. A man was keeping stock for Davenport on Ormigas when witness visited it. Barr & Co. had a store, both at Natchitoches and at Nacogdoches, when witness went there, which was in September 4, 1804. Witness understood they had been doing business at both places for many years before that time. Barr and Davenport resided at Nacogdoches, Texas, doing business there; Smith resided at bayou Sara; and Murphy at Natchitoches, La.

The arrangement between Genl. Wilkinson and the Spanish general, made in latter part of 1806, or early in 1807, was, as witness understood, to the effect that the territory between the Sabine and Rio Hundo should be neutral. Witness started for Nacogdoches, in Texas, to hunt a negro; he took a letter from Capt. Turner to the Spanish governor, asking leave to pass to Nacogdoches for that purpose; he got to the Spanish advance guard, but was compelled to return, leave to pass being refused him by the governor; said advance guard was then several miles east of both the La Nana and Ormigas, and on the Neutral territory.

One David Brown was with witness. Brown lived with Davenport, he was permitted to pass.

Witness was, in 1814 and '15, colonel of a regiment of militia, which came here at the time of the siege of New Orleans.

Cross examined by U. S. district attorney.

Witness thinks Luther Smith resided at bayou Sara. Does not know of his own knowledge. Can't describe his personal appearance. He lived at bayou Sara to sell mules sent from Nacogdoches. Witness never heard of his having any relation in this part of the country.

The time at which witness started to Nacogdoches for a negro was before the agreement between Genl. Wilkinson and the Spanish general. After the agreement, the Spanish troops retired beyond the Sabine. There was a man named De Soto, who lived east of the Sabine, on the bayou Pierre, and was called a justice of the peace or alcalde, or something of the sort, and acted as such. Witness does not know to which side he belonged, whether the American or the Spanish.

After said agreement, no one exercised civil jurisdiction over this Neutral territory. It was the resort of thieves and robbers. That was in 1811.

The Spanish titles, which witness has seen, were orders of survey and rickets. Witness now speaks of lands on the east side of the Rio Hundo. Witness never did any surveying out there.

When Governor Salcedo went through Louisiana, on his way to San Antonio, he collected all the titles he could. It was understood that the object of collecting them was to have the titles completed. Many gave him their titles, and they were lost.

Re-examination in chief.

What witness states as to Salcedo is from information, not from his own knowledge. Witness supposes the object of Salcedo in collecting said titles as he did, to have been to make himself popular.

February 26th.

Testimony of Henry A. Bullard, taken down by the clerk in open court.

Henry A. Bullard, being duly sworn, deposes that the document marked [Y] on file and now exhibited to him, is the same spoken of by him in his testimony in May, 1845, in answer to a question of the U. S. district attorney, as having been seen by him in the hands of the counsel for petitioners. Witness has known this paper, and also document marked No. 1 and No. 2, since 1816. Document [Y] was kept by Mr. Davenport among his title papers. Pineda, whose name appears in document [Y], was known to witness. He has been dead many years, but witness knows not how long.

While Davenport had document [Y], said Davenport claimed to own the land described therein.

Witness knew well Jacinto Mora, the grantee of the Ormigas tract.

He was a very respectable man. He was a pure-blooded Spaniard, from the island of Madeira. Mora lived near the grant, after having sold it.

Witness further deposes, that he knows the signature of Samuel Davenport to the original act of dissolution of partnership of Barr & Co., (now shown him;) that said signature is genuine; that Murphy was dead before he (witness) came to the country; that he has seen Murphy's signature to documents which were admitted to be genuine; that he has no doubt that the signature of said Murphy to said original act of dissolution of partnership is genuine.

And under the agreement of the 3d of March, 1846, a certain document, being a notarial act of conveyance from Jacinto Mora to Joseph Piernas, being marked Z, as offered in evidence by the counsel for the petitioners in the case of Yates & McIntyre, was offered in evidence in this case, and is as follows, to wit:

No. 2. Venta.

Sale to Piernas by Mora.

Se passe que yo, Jacinto Mora, sargento primero de la cavalleria miliciana del Pueblo del N'ra Señora del Pilar de Nacogdoches, en el reyno de N. C., precidente, actualmente en esta ciudad de la Nueva Orleans, otorgo que vendo realmente al subteniente retirado Dn. José Piernas, de esta vecindad, a saver, un paño de tierra de que soy dueño, en el termino y jurisdicion del citado pueblo de Nacogdoches, citado como a veinte y cinco leguas distante del mencionado pueblo, ne el paraje nombrado las Hormigas, compuesto del frente principal, que mira al occidente, y estendiendose seis leguas de norte a sur sobre la orilla oriental del rio Sabinas, cuyo paño de tierra es el mismo que se me concedió, en caterse de Noviembre del año immediato pasado, de mil setecientos noventa y cinco, por aquel govierno, y para los fines que propuse en mi peticion de la d'ha citada, y en que manifeste las circumstancias de la tierra, sus puntos, distancias, y demas que la componen, con todas las quales, segun suenan en la consecion, hago al insinuado Dn. Jose Piernas la indicada venta, por libre de gravamen, por que no lo tiene, y por precio de doscientos pesos, qe. el nominado comprador me ha entregado en reales de contado, y a mi voluntad renuncio la non numerata pecunia, prueva, leyer de la entrega y otorgo formal recivo; mediante lo qual me aparto de la propiedad, procession, util, y señorio, y demas acciones reales y personales, que al nominado paño de tierra, segun y como esta concedido he tenido, que cedo y transfiero en el comprador, y en quien su dr'o y causa huviera, para que como propio la posea o enagene a su voluntad, por esta escriptura, que le otorgo en señal de rl. entrega, y con lo que e visto haver acquerido la pocescion, sin otra prueva de que le relevo, y me obligo al saneamiento de esta venta, en bastante forma, o como mas combenga, con mis bienes havido ó por haver, con clausula guarentisia, contrato, executorio, poderio, y sumicion de justicias, y renunciacion de leyes de mi favor con la

general enforma, qe. lo prohive; y estando presente, yo, el nominado Dn. Jose Piernas, acepto a mi favor esta escriptura, recivo comprado el relacionado paño de tierra, en la conformidad que mes es vendido de el, que me doy por entregado y otorgo formal recivo. En cuyo testimonio es f'ha en esta ciudad de la Nueva Orleans, a veinte y cinco de Abril, de mil setecientos noventa seis: Yo, el escrivano, doy fee, conosco a los otorgantes, que firmaron, siendo testigos, Dn. Antonio Rodriguez, Dn. Andres Fernandez, y Dn. Marcos Rivera, presentes.

JACINTO MORA,
JOSE PIERNAS.
Ante mi: CARLOS XIMENES.

Concuerda con su original que paso por ante mi, y queda en el archivo de mi cargo, a que me remito y de pedimiento de parte doy la presente el dia de mi otorgamiento.

(Signed) CARLOS XIMENES.

No. 2.

Sale to Piernas.

Be it known that I, Jacinto Mora, first sergeant of the cavalry of militia of the settlement of *Nuestra Señora del Pilar* of Nacogdoches, in the kingdom of New Spain, residing actually in this city of New Orleans; I declare, that I do sell in reality, to the second lieutenant now out of service, Mr. Jose Piernas, of this vicinity, to wit, a tract of land, my property, in the jurisdiction of the said Nacogdoches, situate at about twenty-five leagues distance from said settlement, at the place called Las Ormigas, the principal front of which faces the westward and extends six leagues north and south on the borders of river Sabine to the eastward; which tract of land is the same granted to me this 14th November of the year just elapsed, 1795, by that government, for the purposes I did propose in my petition of the already mentioned date, and in which I manifested the circumstances of the lands, its points, distances, &c., that comprehends it; with all of which, as mentioned in the title of concession, I now make to the said Jose Piernas the mentioned sale, free of mortgage, for the price of two hundred dollars that the said purchaser has paid me in money to my satisfaction; I renounce *to* [him] all my rights, proof, laws of the delivery, and I do give a formal receipt, by the means of which I part from the said property, beneficial possession, real and personal action, I had on the said tract of land to me granted; and I now cede and transfer the same to the purchaser, or to who may be invested with his rights and authority, that, *at* bona fide his property, he may enjoy it or dispose of it as he may think proper by this public writing, that I issue to him as a royal delivery, and that I have acquired said possession in such way that I obligate myself to make it valid, with my properties now present and those to be had, with clauses and guarantee, &c., submission to justice, renunciation of laws in my favor, &c.; being present with said José

Piernas, he accepted, in my name, this writing, receipted as purchased the said tract of land in the manner it is sold.

For which I remain satisfied, and deliver the corresponding receipt, the date of which testimony [is] in the city of New Orleans, 25th April, 1796. I, the notary, do certify that I know the parties that have signed; being witnesses, Antonio Rodriguez, Andrez Fernandez, Marcos Rivera, were present.

JACINTO MORA,
JOSE PIERNAS.
Before me, CARLOS XIMENES.

I do certify the above to agree with its original, *and* was compared before me, and remains in the records of my charge, to which I refer; and, by the solicitude of the interested party, I give these presents the day of its passation.

I do hereby certify, that the foregoing writing is a true translation from the Spanish sale of a tract of land, situate at the place called Las Ormigas, first granted to Jacinto Mora, in 1795, and this sold it to Joseph Piernas, of New Orleans, on the 25th April, 1796.

(Signed) JOS. CARRIERE.

And under the agreement of the 3d of March, 1846, the map and notes, in the Spanish language, marked [Z], as offered in evidence by the counsel for the petitioners, in the case of Yates & McIntyre, together with the admissions and exceptions thereto, were offered in evidence in this case, and are as follows, to wit:

[For map Z see original.]

Plano figurativo del paño de tierra cituado en el parage llamado las Ormigas, en la orilla oriental del Rio Sabinas, dependiente de la jurisdiction del Pueblo de Nuestra Señora del Pilar de Nacogdochez, en la province de los Texas, una de las del reyno de Nueva Espana; el qual paño, que dista como veinte y cinco leguas del referido Nacogdochez, fué concedido por aquel Govierno a Jacinto Mora, en quatorze del mes de Nov're, del año de mil setecientos noventa y cinco, y este me lo vendio en veinte y cinco de Abril, de mil setecientos noventa y seis.

El expresado paño de tierra, cuyo frente principal mira al occidente, y toca a la dicha orilla oriental del citado Rio Sabinas, forma un quadro perfecto de seis leguas de largo cada frente, ó una figura de quatro angulos rectos, que contiene dociento sesenta y dos mil y ochenta arpanes de superficie.

El suelo es elevado, y compuesto de encinales y de pequeños, llanos, ó prados; se hallas regado por muchos arroyos, y arroguellos, y tiene algunas fuentes ó ojos de agua.

Las aguas del Rio Sabinas, y las de los arroyos, arroyuelos, y fuentes, son muy ligeras, sueves, frescas, y limpidas.

Al citado pano de tierra se hallan exèlentes y abundantes pastos, y muchas cañas verales, para nutrimiento en invierno del ganado, cavallar, mular, y vacuno; y se pueden hacer en el vaquerias de todo especie de ganados.

Hay allí muchas maderas para edificios muebles, sercas, leña y carbon; y en las orillas del Rio Sabinas hay sipres, y tambien piedras para molinos de trigos y de mahiz, para amolar erramientas, y hacer cal; y en dicho paño de tierra se encuentran comodos pareges para colocar molinos de agua y sierras de madera.

En el Rio Sabinas se hallan castores, nutrias, y exêlentes pexes.

En todo el suelo del memorado paño de tierra, exepto en algunos parages baxos, pegados a la orilla del Rio Sabinas, en los que estan los sipres, se puede cultivar el trigo, arros, mahiz, añil, tabaco, cañamo, lino, algodon, caña dulce, y toda suerte de legumbres; como asi mismo arboles de muchas calidades de fruta.

No se necesitan allí malicones para resguardarse de las inundaciones, ni fosos para agotar las tierras propias al cultivo; y en los llanos no se necesita de otra preparacion para sembrar que la de arar los.

Del llano de las Ormigas, que es el que ha sido habitado, hay como doce leguas al Arroyo de las Piedras; de dicho llano a los Adayes, unas doce leguas; y de allí a Natchitochez, siete. Del referido llano al lago Español, como onze leguas larg's. Este lago descarga sus aguas en el Rio Colorado, mas arriva de la Inglesia de Natchitoch'z.

Certifico que las dimenciones, rumbos, y vient's, del citado paño de tierra, largo de sus frentes, su figura rectilinea, y parage en que se halla, y demuestra este plano figurativo, es todo conforme al form á titulo de concesion que obtuvo dicho Jacinto Mora.

Nueva Orleans y Febrero 11, de 1804.

(Signed) JOSEPH PIERNAS.

Nota.—Jacinta Mora fué puesto en posecion de su d'ha tierra por el sindico procurador publico Dn. Joseph Sepida, segun pratica de las provincias de Nueva España, pocos dias despues de la fecha de su titulo de concession, segun en el consta.

(Signed) JOSEPH PIERNAS.

This map and notes are received, subject to all legal exceptions. The genuineness of the signatures of Piernas to the said notes is submitted by the counsel for petitioners and for respondents to the judgment of the court.

Translation of notes to document [*Z.*]

A figurative plan of the tract of land, situated in the district of *county* called Las Ormigas, on the eastern bank of the river Sabine, subject to the jurisdiction of the post of Our Lady of the Pillar of Nacogdoches, in the province of Texas, one of those of the kingdom of New Spain, which land, distant some 25 leagues from the said Nacogdoches, was granted by that government to Jacinto Mora, on the 14th of November, of the year 1795, and he sold it to me on the 25th of April, 1796.

The aforesaid tract of land, whose principal front looks towards the west, and touches the said eastern bank of the aforesaid river Sabine, forms a perfect square of six leagues wide, each side, or a figure of four right angles, which contains 272,800 superficial arpents.

The land is high, made up of woodland and small prairies or plains,

and is watered by many bayous and small streams, and has in it many fountains or springs.

The water of the river Sabine, and those of the bayous, brooks, and springs, are very light, sweet, fresh, and clear.

In the said tract are found excellent and abundant pastures, also much cane for nourishment, in the winter, of horses, mules, and horned cattle, and upon it can be established vacheries of all kinds of live stock.

Upon it is much wood for building furniture, fencing, timber, and charcoal, and on the banks of the Sabine there is cypress; also stones for wheat and *grish* mills, to sharpen tools and make lime; and in said tract are convenient situations for water-mills and saw-mills.

In this river Sabine are excellent fish, beaver, and otter.

In all the said tract of land, except in some low places adjoining the river Sabine, in which is cypress, can be cultivated wheat, rice, corn, indigo, tobacco, hemp, flax, cotton, sugar cane, and all kinds of vegetables, as also fruit trees of many qualities.

No levees are necessary there to guard against overflows, nor ditches to drain the land proper for cultivation; and in the prairies no other preparation for sowing than ploughing.

From the prairie Ormigas, which has been inhabited, it is 12 leagues to Bayou Pierre, from said prairie to the Adair some 12 leagues, and from there to Natchitoches 7; from said prairie to the Spanish lake some eleven leagues. This lake *discharge* its waters in the (Rio Colorado) Red river, above the church of Natchitoches.

I certify that the dimensions and the points of the compass of the above described tract of land, of the size of its fronts, its rectilineal figure, and the section in which it lies, as is shown by this figurative plan, correspond in every particular with the formal title of concession which was acquired by the said Jacinto Mora, and of which he was put in possession by the public syndic procuror, Don Jose de Zepeda, in conformity with the usages of the provinces of New Spain, a few days after the date of his title to the concession, as will be seen by reference thereto.

New Orleans, February 11, 1804.

JOS. PIERNAS.

And under the agreement of the 3d of March, 1846, a document marked [Y], as offered in evidence by the counsel for the petitioners in the case of Yates & McIntyre, was offered in evidence in this case, and is as follows, to wit:

Señor Teniente de Governador: Dn. Eduardo Murphy, del vecindario de Natchitoches, ame vmd. parexo y digo: que hay el tiempo de tresanos que va a quatro, que tengo en esta jurisdiction de Nacogdoches del cargo vmd.; con conocimiento de los sucesores comandantes sus antecesores, establecido un rancho, en el paraje conocido por la laguna de Juan Mora y en el he conserbado ganado mayor y otras animales, de los quales hasta el dia de hoy tengo pagado el año de Diez-

mos, segun es costumbre en esta prov'a y hallandose d'ho paraje escaro de carrisales suficientes, pa. la conserbacion y augmento de d'hos animales, ocuro a vmd. pidiendo se me conceda a titulo de propriedad un pano de tierra en el paraje llamado la Nana, que se halla sico entre parte oriental del Rio Sabinas, como unas siete leg's de sus margenes, y en el camino real queva de este puebla al puesto de Natchitoches; d'ho pano de tierra desde el sentro de el, que es el llano que junta al arroyo de la citada Nana, se encuentra en el referido camino real, largo de dos leguas por cada viento principal, de manera que forme un quadro perfecto, cuyos frentes teng'n cada uno quatro leguas de largo, y sea sentro de d'ho quadro el enunciado llano, pa. en este espacio de tierra poder yo tener suficientes agostadores pa. mis actuales ganados y los que fuere eriando; en cuya virtud y en la de ser realenga la tierra que solicito, y no haber ningun vecino sercano al indicado parage que yo incomode, pues el mas proximo es el nombrado Charbono, que se halla unas ocho leg's distante, y en el parte occidental del nombrado Rio Sabinas. A vmd. suplico se sirva concederme esta gracia, que espero merecer de la justificacion de vmd.

Nacogdoches y Febrero veinte y dos de mil setecientos noventa y ocho.

E. MURPHY.

Passe esta just'a al procurador pa. que deje en pocecion a esta parte, en el paraje que señala.

Nacogdoches, 1o de Julio, de 1798.

GUADIANA.

En prim'o de Ag'to, [del año] de mil setecientos noventa y ocho en cumplim'to del decreto que antecede, yo, Dn. José Cayetano de Sepeda, sindico, procurador del comun del Pueblo de N'tra S'ra del Pilar de Nacogdoches, me trasporte, acompañado de los testigos de mi ass'a, Juan Jose Medina y Jose Dominguez, en el paraje llamado la Nana, a efecto de establecer en este paraje de la Nana á Dn. Eduardo Murphy, que se hallo presente, y darle la posecion que se me ordena; en cuya virtud, estando en este paraje indicado, despues de haber inquerido si habia vecinos colindantes, para citarlos á estar presentes á esta autuation, y quedan yo bien serciorado de que el mas cercano ques es Mr. Charbono, dista. unas ocho leguas algo menos del mencionado paraje de la Nana, y no hallando impedim'to alguno, poniendo al d'ho Don Eduardo Murphy en posecion de la tierra realenga que pide en su memorado escrito, con todo la extencion y linderos que en el se expresan, he visitado estos linderos y territorio, con los indicados testigos de ass'a, y con el supra mencionado Don Eduardo Murphy, extendiendo las dos leguas por el camino real de San Antonio de Bexar al viento de poniente que alcaman hasta los Chupaderos, y otras dos leguas de tierra para el viento del oriente, que alcaman por d'ho camino real al arroyo del Japon, y dos leguas pa. el viento del norte, y dos leguas pa. el viento del sur; y tomandole por la mano d'ha, he andado con el una cantidad de pasos de norte a sur, y otra cantidad

de pasos de oriente a poniente, y soltandole depues de la mano, andubo como que hizo en d'ho territorio de la Nana, arranco yerbas, hizo hoyos en la tierra, planto estacas, corto arbolitos, copo pedazos de tierra, los tiró al suelo, e hizo otras muchas cosas en señal de la posecion, en que yo lo he puesto, en nombre de S. M., (Q. D. G.,) de la d'ha tierra, con los linderos y extencion que ha pedido; y en demonstracion de la propriedad y señorio que ya tiene sobre ella como unico dueño, que es en virtud de este auto de posecion; y para mayor abundam'to del dr'o de propriedad qe. para siempre tiene adquirido sobre d'ha tierra de ocho leguas, dos por cada viento, en la manera, paraje, y linderos que expresa su consabido antecedente escrito, con las entradas, salidas, usos, construmbres, y serbidumbres, que tiene el referido Don Eduardo Murphy, puse a todo el mencionado territorio de la Nana, que encierra el quadro de ocho leg's, dos por cada viento, el nombre de Sn. Pedro del Arroyo de la Nana, para que á perpetuidad sea llamado este mencionado territorio Sn. Pedro del Arroyo de la Nana, y quedando ya el suso dicho Dn. Eduardo Murphy en entera y pasifica posecion, conforme á dr'o de toda la tierra indicada para en todos los tiempos conste firme este auto de posecion, con los mencionados testigos, en este paraje de Sn. Pedro del Arroyo de la Nana, en el mismo dia, mes, y año.

JOSE CAYETANO DE SEPEDA.

De ass'a, JUAN JOSE MEDINA,
De ass'a, JOSE DOMINGUEZ.

En el puesto [de] Nacogdoches, á los quatro dias del mes de Ag'to, del corr'te año de mil setecientos nobenta y ocho, yo, Dn. José Ma. Guadiana, alf'z 2o de la comp'a de Monclova y comandante militar y politico de d'ho puesto, dixe: que en virtud de haberse dado la antecedente posecion de tierra á Dn. Eduardo Murphy, sin contradicion alguna, se archibe este documento original en el protocolo de este nominado puesto para la debida constancia y se de a la parte interesada testimonio para que la sirba de titulo de propiedad y para que conste lo sente por diligencia que firme, con dos testigos de ass'a, con quienes actuo á falta de escribano publico, y en el presente papel comun por falta del sellado que corresponde, de lo que doy fee.

JOSÉ MA. GUADIANA.

De ass'a—
JOSE LUIS DE LA BEGA,
PEDRO LARRA.

En el pueblo de Nacogdoches, á los tres dias del mes de Noviembre, del año de mil setecientos noventa y ocho, ante mi, Don José Maria Guadiana, alferez de caballeria y comandante militar y politico en d'ho pueblo, comparecio Don Eduardo Murphy, y declaro haber cedido, y cede, todo el titulo de propiedad, que en la tierra y rancho de San Pedro de la Nana, que refiere en el antecedente documento, á fabor de la comp'a de comercio, que existe entre el d'ho Murphy, Don Guillermo Barr, Dn. Samuel Davenport, y Mr. Smith, expresando el mencionado Don Eduardo Murphy, que para el, sus hijos, herederos y succe-

sores, renuncia para siempre *to* derecho sobre d'ha tierra y rancho, y lo cede y transpase en la mencionada comp'a, y para la debida constancia lo firmo con migo d'ho jues, y dos testigos de ass'a, con quienes actuo a falta del sellado que corresponde, de todo lo que doy fee.

JOSE MARIA GUADIANA.

De ass'a—
JOSE LUIS DE LA BEGA,
PEDRO LARRA.

Concuerda este testimonio con su original que queda en el archibo de mi cargo, a que me remito de donde a peticion de parte, yo, Don Jose Maria Guadiana, alferez de caballeria y comandante sibil y militar de este pueblo de Nacogdoches, lo hize sacar, corregir, y confrontar, va cierto y verdadero, y al berlo sacar se hallaron presentes, los testigos de mi ass'a, Dn. José de la Bega y Pedro de Larapozos, a los quatro dias del mes de Nov're, del año de mil setecientos noventa y ocho, de lo que doy fee.

JOSE MARIA GUADIANA.

De ass'a, JOSE LUIS DE LA BEGA,
De ass'a, PEDRO DE LARAPOZOS.

STATE OF LOUISIANA, *Parish of Natchitoches, ss:*

Pierre N. Gagnon, of said parish, being duly sworn, doth depose and say, that he is, to best of his knowledge, information, and belief, fifty-nine years of age, is a native born citizen of said parish, and has resided therein all his lifetime, except that from the year 1804 to 1813 he resided in Nacogdoches, in Texas; that while so residing at Nacogdoches, he became acquainted with one Jose Pineda, a Spaniard by birth, and also a citizen of said town of Nacogdoches; that said Pineda was the private secretary of several of the different commandants at said post of Nacogdoches whilst this deponent so resided there, and keeper of the beaureau of public records at said post; that this deponent had frequent business transactions with said Pineda, and often saw him write, and was familiar with his handwriting; and that, in the opinion and belief of this deponent, the ancient instrument hereto annexed in the Spanish language, and purporting to be a grant of land from Guardiana, military and civil commandant at the post of Nacogdoches, in Texas, to Edward Murphy, and transfer by him to William Barr & Co., is in the proper handwriting of said Pineda, and from its whole appearance witness has no doubt but it was made out by said Pineda at the date of said grant, and delivered to the grantee therein named by the "copias del original," in conformity with the usages at said post, as they existed at the time this deponent resided there—the original itself having been filed in the beaureau kept by said Pineda, with other public records, in the opinion and belief of this deponent.

(Signed) PIERRE N. GAGNON.

Subscribed and sworn before me, this 29th day of April, A. D. 1845.

(Signed) C. E. GRENEAUX,
Parish Judge.

And under the agreement of the 3d of March, 1846, a review made by the translator of this court, as offered in evidence by the counsel for the petitioners in the case of Yates & McIntyre, was offered in evidence in this case, and is as follows, to wit:

YATES & MCINTYRE
vs.
THE UNITED STATES.

I have received the translations of the following documents filed in said case, and beg leave to report.

1st. The translation of the petition from Yacinto Mora to the lieutenant governor, although much abridged, is in substance correct.

2d. The order from B. Fernandez to Don Jose Cayetano de Zepeda, syndic procuror, is correct.

3d. The document by Don Jose Cayetano de Zepeda, placing Jacinto Mora in possession of the land, is correct.

4th. The sale by J. Mora to Wm. Barr & Co. is correct.

5th. The petition of E. Murphy to the lieutenant governor is in substance correct.

6th. The order on said petition to the syndic procuror is correct.

7th. The document by Don Jose Cayetano de Zepeda, giving possession of the land to E. Murphy, is correct.

8th. The sale by E. Murphy, in favor of the commercial firm of E. Murphy, Wm. Barr, S. Davenport, and Smith, is correct.

9th. The petitions by Barr, S. Davenport, to the governor, in relation to the Ormigas and La Nana grants, are correct; the orders thereon are also correct.

I have also compared the Spanish copies of the documents in relation to the Ormigas grant, and found the following variations:

In the original document, "Oriente."	In the copy, "Occidente."
Don Dionisio Vallée, Teniente de Cavalleria.	Don José Maria Guadiana, Teniente de Cavalleria.
Santiago Lepin, Luis Rubriquet, y Don José Cayetana de Zepeda.	In the copy, Don José de la Bega, Don José Flores, y Don José Ignacio Barbo.
Nacogdoches, 21st July, 1805.	In the copy, Nacogdoches, 14th April, 1810.
Dionisio Vallée.	M. Guadiana.

(Signed) ED. LAUVE,
Translator.

And under the agreement of the 3d of March, 1846, an agreement, as made in the case of Yates & McIntyre, between the counsel for the respondents and the counsel for petitioners, was considered as made in this case, and reads as follows, to wit:

The original act of dissolution of the partnership of Barr & Co. being now exhibited, and the signatures thereto being proved, it is agreed

by the U. S. district attorney that a copy thereof be used in place of the original.

And under the agreement of the 3d of March, 1846, a certain document, entitled Document No. 33, House of Reps., 27th Cong., 2d session, Land Claims, Opelousas, Louisiana, marked A, No. 1, as offered in evidence by the counsel for the respondent in the case of Yates & McIntyre, was offered in evidence in this case, and to the reception of which document the following agreement was made, to wit:

Doc. No. 33, House of Reps., 27th Congress, 2d sess., Land Claims, Opelousas, Louisiana, marked doc. A, No. 1. This document is offered as a *history* of these claims. It is agreed by the U. S. district attorney that this doc. shall be itself withdrawn and sent up, in case of appeal, as a part of the record.

The counsel for petitioners at the same time protests against the admissibility in evidence of any part of this doc. In this doc. the U. S. D. attorney particularly refers to, 1st, a letter from the Commissioner of the General Land Office, (p. 1 to 5,) dated July 9, 1840; 2d, page 7, abstract, Nos. 178 and 179. (The opinion of the commissioner and solicitor of the Land Office, p. 7, is received, not as evidence, but as the opinion of those officers.)

3d. Page 17 to 20.

4th. Pp. 74, and 75, No. 178, testimony in the cases.

5. Page 76 to 79 (inclusive.)

6. Alphabetical list of Rio Hondo claims, pp. 80, 81, Nos. 178 and 179.

7. P. 93, No. 178.

And under the agreement of the 3d of March, 1846, the report of Mr. Whipple, dated January 13th, 1826, contained in the American State Papers, title Public Lands, vol. 4, page 327, as offered in evidence by the counsel for respondent in the case of Yates & McIntyre, was offered in evidence in this case. (This report was objected to by the counsel for the petitioners, but received as a history of the case,) and is as follows, to wit:

19th Congress, No. 448, *1st session.*

Claims between the Rio Hondo and the Sabine, in Louisiana.

Communicated to the House of Representatives January 13, 1826. Mr. Whipple, from the Committee on the Public Lands, to whom was referred the report of the register and receiver of the land district south of the Red river, in Louisiana, upon the land claims situated between the Rio Hondo and the Sabine, in what is called the Neutral territory, (see No. 427, page 34,) reported:

That on the 3d of March, 1823, an act was passed by which the above named territory was annexed to the land district south of Red river, and the register and receiver of said district were required to receive and record all written evidences of claims to land in said tract of country derived from and issued by the Spanish government of Texas,

prior to the 20th day of December, 1803, according to the regulations as to the granting of lands, and the laws and ordinances of said government. The register and receiver of said district were also required to receive and record all evidences of claim founded on occupation, habitation, and cultivation, designating particularly the time and manner in which each tract was occupied, inhabited, and cultivated, prior to and on the 22d February, 1819, and the continuance of such habitation and cultivation subsequent to that time, with the extent of improvement upon each tract. They were further by said act to receive and record such evidence as may be produced touching the performance of conditions required to be performed by any holder of any grant, concession, warrant, or order of survey, or other written evidence of claim, and on which the validity of such claim may have depended under the government from which it emanated. They were also required by said act to receive and record all evidence of fraud in obtaining or issuing the written evidence of such claims, and of their abandonment of forfeiture.

The said act further requires, that the register and receiver shall transmit to the Secretary of the Treasury a complete record of all claims presented to them under the act, and the evidence appertaining to each claim.

They are also required to make an abstract, dividing said claims into four distinct *claims*, and to transmit it to the Treasury Department.

The first class is required to contain a specification of the nature and extent of complete titles, the time when, by whom, and to whom issued, with the date of any transfer, the name of the person transferring, and to whom transferred, and whether the condition of such grants have been complied with.

The second class is required to contain all claims founded on written evidence, and not embraced in the first class, when the conditions on which the perfection thereof into complete titles have been complied with according to the laws and ordinances of the Spanish government.

The third class includes all claims founded on habitation and cultivation prior to the 22d February, 1819, where such habitation and cultivation would have entitled the claimants to a title under the government exercising the sovereign power over that country, and which, in the opinion of the register and receiver, ought to be confirmed.

The fourth class is required by said act to consist of such claims as in the opinion of the register and receiver ought not to be confirmed.

The said act also contains a proviso, that none of the proceedings directed to be had under it shall be considered as a pledge on the part of Congress to confirm any claim thus reported.

The committee are of opinion that the act above referred to made it the duty of the register and receiver, in the first and second classes specified in said act, to report to Congress the rules and regulations, laws and ordinances of the government of Texas, under and by virtue of which grants were made, as well as the evidences of title which existed in the form of written evidence on which claims were founded, and likewise the conditions attached to said grants by the Spanish authori-

ties, and whether such conditions had been complied with by the claimants or their representatives.

It appears by the report of the register and receiver of the land district south of Red river, that they repaired to Natchitoches and held their sittings therein; that no record of land titles, nor other certain written evidence of title, was presented to them for examination; that the law and ordinances under which the Spanish authorities of Texas granted or pretended to grant lands, were not to be found, and consequently were not examined by them; and that no traces of evidence of the right by which persons settled upon the Neutral territory held their lands could be subjected to the examination of said officers, except what could be obtained from the recollection of the inhabitants examined under oath; and that resort was therefore had to the testimony of such witnesses as the said officers of the land office deemed worthy of credit.

Your committee will not here pause to animadvert upon the danger of permitting those directly or indirectly interested in the confirmation of land titles claimed either by themselves, their representatives, or friends, to testify even on oath, not only to the origin and progress of their respective grants, but also to the rules and regulations by which the Spanish authorities of said province were governed in the exercise of the power of granting lands, which power must have been conferred by the laws and edicts of the Spanish monarchy.

It is further manifest that the usages of those who pretended to grant lands in said Neutral territory, if those who testify before the register and receiver are to be credited, were not in conformity with the rules and regulations adopted in the provinces of Louisiana and Florida while under the Spanish government, nor did they conform to any regulations which are known to have been established either by the King of Spain or his council in Indies. It however appears from the report of the register and receiver, that, while claims of the first class were under their examination, certain written documents, purporting to be grants emanating from the governor of Nacogdoches, or the commissioner of the same, were presented to them, and upon these papers they have founded their report, recommending the confirmation of the claims of this class.

The register and receiver have not reported whether any, and if any, what conditions were annexed to these grants; nor have they informed whether, if conditions were annexed, such conditions have been complied with by the grantees. These grants are, therefore, reported as perfect and absolute grants, without any imaginable inducements on the part of the Spanish authorities to the making of them, and without any condition subsequent upon the performance of which their perfection or completion might depend.

The claims of this class are not, therefore, brought within the purview of the act of Congress, nor do they conform to any description of claims known to this Government to have been grants regularly and legally issued by the Spanish government.

The committee here beg leave to refer to the able and lucid report of

the commissioners of West Florida, on the general nature of the Spanish grants.

The first class of cases reported by the register and receiver of the land district south of Red river ought not, therefore, in the opinion of the committee, to be confirmed.

In the examination of the second class under the act of Congress, the register and receiver have not complied with the provisions of the act. This class, as will be seen above, was, by said law of Congress, to consist of claims founded on written titles, where conditions were imposed; and subsequent proceedings were, therefore, necessary to complete the grants. In some of the cases of claim in this class, as appears by the report of the register and receiver, conditions were annexed to the concessions, such as the final approval of the superior authority, &c., &c., which the committee will not minutely detail, and yet no proof is reported by said land officers to show that the necessary approval or confirmation was ever obtained, or any of the conditions complied with. The surveys in many, if not in all these cases, have been made by surveyors of the United States; but it does not appear by what authority these surveyors acted in running the lines of the claims in question. The committee are of opinion that it would be dangerous to the interests of the Government to permit such loose and imperfect evidence to constitute the foundation of title to any portion of the public domain, and cannot, therefore, recommend the recognition of this class of claims.

The third class of claims are founded on habitation and cultivation prior to the 22d day of February, 1819, where such habitation or cultivation would have entitled the claimants to a title under the Government exercising authority over that country, and which, in the opinion of the commissioners, ought to be confirmed.

The register and receiver have reported a very considerable number of claims for confirmation in this class; the habitation and cultivation is sufficiently proved, according to the act of Congress, but no evidence whatever is returned by which the claimants would appear to be entitled to grants, in consequence of such habitation and cultivation, from the Spanish authorities. It is also proper to remark, that the several claimants in this, as well as in the other classes of claims reported, have testified for each other, all having a direct and common interest in procuring confirmation of their titles by the United States. This single fact must very much weaken the force of their testimony; and where it is not supported by other circumstances and evidence, ought to cause it to be received with great caution.

In addition to the foregoing facts, the committee deem it incumbent on them to state that it appears, from documents submitted to them by the Commissioner of the General Land Office, that sixteen claims reported for confirmation by the register and receiver of the land district south of Red river, are upon lands claimed by the Caddow Indians.

These claimants were, by the former Secretary of War, ordered off the Caddow lands; but, it seems, did not obey the order, and have, by some process unknown to your committee, induced the said register and

receiver to report their claims for confirmation. The Indian agent for that quarter has, in behalf of these sons of the forest, transmitted a statement of their case for the consideration of the Government.

Under all the circumstances presented, the committee are of opinion that it is not expedient, at present, to confirm any of this class of claims.

The several claimants who have, for some time prior to the possession of the said Neutral territory by the United States, inhabited and cultivated lands under the expectation of obtaining final titles from the Spanish authorities, may hereafter be considered as entitled to some consideration from the Government of the United States; and it may become a question how far they shall have extended to them the regards and liberality of the Government which have frequently been extended to others in the shape of donations. Of this the Government may, however, consider, when no adverse and conflicting Indian claims shall exist. At present, the committee are of opinion that no measure should be taken on the report of the register and receiver of the land district south of the Red river. They therefore ask to be discharged from the further consideration of the subject.

GENERAL LAND OFFICE, *Jan.* 6, 1826.

SIR: The report of the commissioners for adjusting claims to lands in the Neutral territory being before the Committee on Public Lands, I take the liberty of enclosing to you the paper marked A, containing information relative to several of the claims recommended in that report for confirmation. With great respect, your obedient servant,

GEO. GRAHAM.

The Hon. JOHN SCOTT,
House of Representatives.

A.

DEPARTMENT OF WAR,
OFFICE INDIAN AFFAIRS, *July* 9, 1825.

SIR: I enclose herewith an extract of a letter from Captain Gray, Indian agent, &c., with a copy of the list of claimants to donations of lands, (stated to be under an act of Congress,) therein referred to, annexed; and will thank you, if you possess any information on the subject, to furnish it, to be communicated to the agent for his direction.

I am, very respectfully, sir, your obedient servant,

THOS. L. McKENNEY.

GEORGE GRAHAM, ESQ.
Commissioner General Land Office.

Extract of a letter from George Gray, Indian agent on Red river, to the Secretary of War, dated May 26, 1825.

I also enclose you a list of the names of persons that were ordered off Caddow lands by order of the former Secretary of War, who have since laid in claims for donations on the Caddow lands. I mention this, that

our Government may be apprized of their improper claims to the Caddow lands.

Memorandum of names of persons claiming donations, under the donation act of Congress, on Caddow lands.

1. Leonard Dyson.
2. Samuel Norris.
3. B. Poira.
4. Henry Stockman.
6. Peter Stockman.
7. Philip Frederick.
8. Moses Robertson.
9. James Farris.
10. Cæsar Wallace.
11. John Armstrong.
12. Old Lay.
13. James Wallace.
14. James Coats.
15. Charles Myers.
16. Manuel Freshall.

Copy of a letter from the Commissioner of the General Land Office to George Gray, Indian agent on Red river, dated August 11th, 1825.

SIR: The War Department having furnished me with an extract of your letter of the 26th of May last, in relation to claims to land, I have to inform you, that on an examination of your list with the report of the commissioners on the claims to lands between the Rio Hondo and the Sabine rivers, which has not been acted upon by Congress, I find they recommend for confirmation the claims of the following persons mentioned in your list, viz., Leonard Dyson, Samuel Norris, B. Poira, Henry Stockman, Peter Stockman, Moses Robertson, James Faris, Cæsar Wallace, and John Armstrong. Any evidence you may furnish me with, in relation to the foregoing claims, will be submitted to the committee to whom the report of the commissioners shall be referred at the next session of Congress.

I am, very respectfully, &c.
GEO. GRAHAM.

GENERAL LAND OFFICE, *January* 12, 1826.

SIR: On the 6th instant I enclosed to you a copy of my letter to G. Gray, esq., Indian agent, on Red river, in relation to some claims to land recommended for confirmation by the register and receiver at Opelousas, in their reports on the Neutral country, which were stated to be in the Caddow tract; and I now enclose a copy of his answer, received this day. I am, very respectfully,

Sir, your obedient servant,
GEO. GRAHAM.

The Hon. JOHN SCOTT,
Of the House of Representatives.

CADDOW PRAIRIE, RED RIVER AGENCY,
November 30, 1825.

SIR: I had the honor of receiving yours of the 4th of August last, in relation to the lands entered by certain persons residing on Caddow lands; I have no evidence to offer, except that those persons were, in the first instance, permitted to settle on the lands they now wish to hold under the donation act by the Caddow chief, some years since; and that the Caddow Nation of Indians have had quiet possession of those lands under both the Spanish and French Governments, and has never been termed Neutral lands, and are situated immediately on Red river, and are not within sixty miles of any of the waters of the Rio Rundo, and are, beyond any doubt, Caddow lands. Those persons were all, eighteen months since, ordered off those lands by order of the Secretary of War, and generally removed to the east side of Red river, entirely out of the Indian boundary. Last spring, Red river was uncommonly high, and inundated the east side of Red river, and those intruders were permitted to remove to their former residence. The persons whose names I have forwarded some time since to the War Department are intruders, and are violators of the laws of the United States, with a very few exceptions; and first settled on the lands they now wish to hold for the purpose of trading whiskey to the Indians, and I am informed that those people formerly paid the Caddow chief a rent for the lands they now occupy. Those persons settled on the Caddow lands, some time previous to my being appointed Indian agent.

I have the honor to be, respectfully,
Your most obedient humble servant,
G. GRAY, *Indian Agent*.

To GEORGE GRAHAM, esq.,
Commissioner of the General Land Office.

And under the agreement of the 3d March, 1846, the entry contained in the American State Papers, title Public Lands, volume 3, commencing at page 72, number 49, as offered in evidence by the counsel for the respondents in the case of Yates & McIntyre, was offered in evidence in this case.

Note.—This entry, as offered by the district attorney as being contained in vol. 3 of the American State Papers, title Public Lands, commencing at page 72, No. 49, is not to be found in the said book under the said reference.

And under the agreement of the 3d March, 1846, the entry contained in vol. 3, page 80, No. 53, of the American State Papers, title Public Lands, as offered in evidence in the case of Yates & McIntyre, was offered in evidence in this case, and is as follows:

No. 53.—Joseph Piernass, 262,080 acres, (supposed to be arpents,) in the former province of Texas, east of the river Sabine, claimed under a title to Jacinto Mora, from the governor of Nacogdoches in the said province of Texas. The notice of the claim is accompanied by a bill of sale passed before Carlos Ximenes, notary public at New Orleans,

25th April, 1796, of which the following is a translation: Let it be known, Jacinto Mora sells to Joseph Piernas a tract of land, under the jurisdiction of Nacogdoches, about twenty-five leagues from the village, at a place called the Hormegas, (Presmere,) which leads from north to south on the east bank of the river Sabine; which land is the same that was granted to me the 14th November, 1795, by the government of said place, conformable to the limit, boundary, and other circumstances mentioned in the petition and concession; a plat of survey not appearing to be authentic nor believed to have been made from actual survey, is also filed; and no other document nor testimony has been offered. See the remarks at the end of these reports.

And by the said agreement of the third of March, 1846, a certain note contained in the American State Papers, title Public Lands, vol. 3, page 83, as offered in evidence by the counsel for the respondents in the case of Yates and McIntyre, was offered in evidence in this case, and is as follows:

Note.—Several claims entered with the deputy register for the county of Natchitoches, are known to be for lands lying west of the Rio Hondo, and within that part of Louisiana, the United States' claim to which has been disputed by the Spanish government. The commissioners have not hesitated, on account of the doubt as to which nation sovereignty of the country may belong, to decide on the claims of persons deriving their rights from acts of Congress granting donations from occupancy, &c., because, however the question of sovereignty may ultimately be decided, no inconvenience, they conceived, could result from their decision; but if the question should be settled in favor of the United States, there would be this advantage, that the inhabitants would be quieted in their possessions.

The claims on this report, numbered 46, 47, 48, 49, 53, and 63, are also for lands lying west of the Rio Hondo, and the documents of titles under which they are held have emanated from Spanish authorities at Nacogdoches, of whose powers and authority the commissioners have had no means of acquiring satisfactory information, and therefore declined deciding on those claims. It will be seen that most of them are for very large tracts of land, which, from [the] tenor of the petitions, were designed principally for vacherie establishments. The commissioners have remarked that, to persons holding offices under the Spanish goverment, and persons who may have rendered services to the government, it has been customary to make very large concessions of land.

That Samuel Davenport, William Barr, Luther Smith, and Edward Murphy, joint co-partners in commercial houses established at Natchitoches and Nacogdoches, who are the principal claimants of the land thus circumstanced, did for many years enjoy, under the Spanish government in the province of Texas, the exclusive right of trading with the Indians in that quarter is a matter of public notoriety. Mr. Davenport, one of said co-partners, has submitted to the board a number of original letters from governors and other persons in authority in the said Spanish province, dated between the years 1804 and 1812, in which

they are sometimes styled Traders General. In one of those letters the commandant of Nacogdoches, (Sebastien Rodregues,) informs William Barr that the governor of the province, (Antonia Cordera,) had ordered him to furnish the said Barr, with twenty soldiers under an intelligent sergeant, with amunitions and provisions for a voyage of two months, to enable Mr. Barr to explore and sound the mouths of the rivers Carrunte, Sabine, and Antoyayue, travelling by land, &c. In another letter to Mr. Barr from said commandant, he acknowledges the receipt of documents of observation made for the purpose of ascertaining the mouth of the river Calcasut, and hopes he will soon be furnished with the rest of his commission.

In another letter from Simon Eterra to Samuel Davenport and William Barr, they are requested to furnish the troops of the quarter with provisions, and that they will be thanked for this new proof of being good servants to the King. In another letter to the same persons, from Governor Salcedo, it is stated that there is enclosed a memorandum of toys, goods, &c., for the Indians in that jurisdiction. From the foregoing the commissioners are induced to believe that a part of the lands above alluded to may have been conceded as a recompense for the services and loyalty of the above named persons, and as a remuneration of disbursements which it is likely they may have made for the use of the Government. Signed duplicates.

WM. GARRARD,
LEVIN WAILES,
GIDEON FITZ.

By order of the board:
(Signed) LLOYD POSSEY, *Clerk*.

And by the agreement of the 3d March, 1846, a certain plat of survey, with a certificate of the commissioners thereto annexed, being document marked B, No. 1, as offered in evidence by the counsel for the respondents in the case of Yates & McIntyre, was offered in evidence in this case. The certificate alluded to is as follows:

NORTHWESTERN LAND OFFICE,
February 28th, 1839.

SIR: In compliance with your request of the 8th ult., herewith enclosed are copies of a connection of the lines of the original surveys of the claims of Samuel Davenport and others, reports Nos. 180 and 181, with the lines of the public surveys as corrected by G. S. Walmsley, United States deputy surveyor, at the request of the claimants, the whole of which, as represented on said maps, have been suspended from sale. The entries permitted in this office, previous to a knowledge of the locality of those claims, are as follows, viz: In township 7 north, range 11 west, the east half of the southeast quarter of section 12, the southwest quarter of section 13, and the northwest quarter of section 36, same township.

The entries which appear on the township maps made at Opelousas are as follows:

In township 7, range 11 west, the southwest quarter of section 1, the west half of the northeast quarter, the east half of the northwest quarter, and the southeast quarter, of section 12; the southeast quarter of section 26; and the south half of the west half of the northeast quarter of section 28, in township 6, range 12 west; the southeast quarter of section 14 only.

There are other claims similarly situated, the sale of which has been suspended. Where their precise location is known, will be forwarded. Urgent necessity requires my presence at New Orleans for a few days. I hope it will not be considered improper. The throng of business is nearly over.

I have the honor to be, very respectfully, your obedient servant,

(Signed) PATRICK O. LEE, *Register*.

To JAMES WHITCOMB, Esq.,
Commissioner of the General Land Office.

GENERAL LAND OFFICE,

I, James Shields, Commissioner of the General Land Office, do hereby certify, that the foregoing, in pages 1 and 2, is a true copy of the original letter in this office, and that the foregoing plates, on pages 3 and 4, are true transcripts of the copies which accompanied said letters.

In testimony whereof I have hereunto subscribed my name, and caused the seal of the said office to be affixed, at the city of [SEAL.] Washington, this twenty-eighth day of April, 1845.

(Signed) JAS. SHIELDS,
Commissioner.

[For map No. 3, see original.]

No. 3. The above diagram represents the situation of the Ormigas tract, and the intersection with the public lines. The boundaries of the above tract were run, originally, with no variation of the compass, though reported 9° 30′.

(Signed) GEORGE S. WALMSLEY,
U. S. Deputy Surveyor.

January 4th, 1839.

[For map No. 4, see original.]

No. 4. The above plat represents the situation of the La Nana tract, comprising townships 6 and 7, ranges 11 and 12 west, district south of Red river, La.

Examined December 28th, 1838.

(Signed) GEORGE S. WALMSLEY,
U. S. Deputy Surveyor.

NOTE.—The above was ascertained by finding the centre, being corner to townships 6 and 6, 7 and 7, ranges 11 and 12.

(Signed) GEORGE S. WALMSLEY,
Deputy Surveyor.

And on the 13th day of April, 1846, the following judgment was entered on the minutes, to wit:

EDWARD MURPHY et al.
vs. } 6.
THE UNITED STATES.

This cause having been submitted to the consideration of the court, and having been duly considered, it is now ordered, adjudged, and decreed, that the petitioners do recover their respective interests in each of said tracts of land, as shown on the maps thereof, made by S. and W. T. Walmsley, and filed with the petition in the case of Yates & McIntyre vs. the United States, numbered 5 on the docket of land suits, and as particularly pointed out in the judicial partition marked "Doc. K," filed in said suit of Yates & McIntyre vs. the United States, and being lot No. three (3) in said judicial partitions; and that said petitioners also be entitled to locate so many acres of land as have at any time been sold or otherwise disposed of out of said lot No. three by the United States, on any other unappropriated land, belonging to the United States, within the State of Louisiana.

And it is further ordered that the petitioners pay the costs of this suit.

And on the 5th day of November, 1846, the defendants, by their counsel, Thomas J. Durant, esq., came into the said court, and filed the following petition of appeal, to wit:

EDWARD MURPHY
vs.
THE UNITED STATES.

To the honorable T. H. McCaleb, judge of the district court of the United States for the district of Louisiana.

The petition of the United States respectfully shows, that it is believed there is error in the judgment rendered against them in this honorable court, on the thirteenth day of April last, 1846, in the matter of Edward Murphy vs. The United States.

Wherefore they pray that your honor may be pleaded to allow an appeal to be taken from said judgment to the Supreme Court of the United States.

Signed, THOMAS J. DURANT,
Attorney U. S.

Orders of the judge thereon.

Let this petition be filed, and an appeal granted as prayed for.

Signed, THEO. H. McCALEB,
U. S. judge.

Let the said appeal be returnable on the 2d Monday of February, 1847.

Signed, THEO. H. McCALEB,
U. S. judge.

And on the 13th day of February, 1847, the following entry was made on the minutes, to wit:

EDWARD MURPHY
vs.
THE UNITED STATES. } 6.

Upon motion of Thomas J. Durant, United States district attorney, and on informing the court that an appeal from the judgment rendered in the above entitled case has been granted to the Supreme Court of the United States at Washington, and that the said appeal has been made returnable during the present session of the Supreme Court, and not on the first day of said term, as the practice generally is, to the end that said case of appeal might have its chance of being tried during the present session; and as no object will be gained by issuing citations to the appellees, directing them to appear at any other time than on the first day of the said term of said court, it is therefore ordered, that the order upon said petition of appeal be so amended as to make it returnable on or before the commencement of the next annual session of the Supreme Court.

Clerk's office, United States district court, in and for the district of Louisiana.

I, Needler R. Jennings, clerk of the court aforesaid, do hereby certify the foregoing three hundred and fifty-eight pages, and four plans, (as thereto annexed,) to contain a true and complete transcript of the record in the case of Edward Murphy versus The United States of America, number 6 on the docket of said court, embracing the pleadings and orders of court, as well as all the testimony adduced by the parties on the hearing of the said cause, from the original record now on file in my office.

In testimony whereof, I have hereunto signed my name, and caused to be affixed the seal of the said court, at New Orleans, this [L. S.] 23rd day of October, in the year of our Lord one thousand eight hundred and forty-seven, and the seventy-second year of the American independence.

N. R. JENNINGS, *Clerk*.

I, Theodore Howard McCaleb, judge of the United States district court for the district of Louisiana, do hereby certify, that Needler R. Jennings, who signed the above certificate, was at the time of so signing his name, and is now, the clerk of the United States district court for the district of Louisiana; that faith and credit are due, and ought to be given, to his attestations as such, and that the above certificate is in due form of law.

In testimony whereof I have hereunto signed my name, and affixed my seal, this 25th day of October, in the year of our Lord one thousand eight hundred and forty-seven, and the seventy-second year of the American independence.

THEO. H. McCALEB, [L. S.]
U. S. judge.

United States district court for the district of Louisiana, to Edward Murphy, greeting:

You are hereby cited and admonished to be and appear before the Supreme Court of the United States of America, to be holden at Washington city on the first Monday of December next, pursuant to an order of appeal granted on the 13th day of February, 1847, by the district judge of the United States for the district of Louisiana, in a certain suit wherein you are plaintiff and the United States are defendants, to show cause, if any there be, why the decree rendered on the thirteenth day of April, 1846, against the said appellants, and in your favor, should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness my hand and seal, at New Orleans, this fourteenth day of August, A. D. 1847.

THEO. H. McCALEB, *U. S. judge*.

Marshal's return.

Received 10th September, 1847, and on 20th September, 1847, served a copy of the above citation on Bailey Peyton, esq., attorney for Edward Murphy, by leaving the same in hands of W. C. Hamner, esq., at New Orleans, the said Peyton being absent from the city.

WM. SHEARER,
Dy. U. S. marshal.

Filed 15th November, 1847.